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THE FAR EAST

An International Survey

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BY

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BOSTON

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PREFACE

The Far East: An International Survey is a revision and continuation of *The Pacific Area: An International Survey*, which was written by me at the request of World Peace Foundation and published in 1929. The trustees of the Foundation, believing that it would be desirable to have the material in this volume brought down to a more recent date, were fortunate in obtaining for this task Professor Harold S. Quigley, of the University of Minnesota, a recognized authority on the Pacific and the Far East, who has frequently visited China and Japan and has written discriminatingly on the international issues of that region.

Dr. Quigley has done all the work of condensing and revising *The Pacific Area* and of adding the description and analysis of the international relations of the Far East from 1929 to July 1937. It was deemed best to postpone the writing of the history of the present undeclared war in China until a time when this great conflict can be adequately treated as a whole. *The Far East* is in greatest measure a new volume, since most of the material in it deals with the important events which have crowded the years following 1929. Its emphasis is also different. The year 1929 was near the close of a chapter in Far Eastern foreign relations which dealt with China's demands on the powers as a whole for the restoration of the exceptional privileges which they had obtained in the nineteenth century. *The Pacific Area*, therefore, stressed the struggle of China to terminate what it had come to term "the unequal treaties." But from September 18, 1931 to the present the key to the Far Eastern situation has been China's attempt to defend its sovereignty and its territory against the constant aggression of Japan. *The Far East*, therefore, emphasizes this struggle and all Sino-Japanese relations which it involves. The present volume, too, treats a number of topics which were not included in the earlier book; it devotes a chapter to the Philippine Islands as a factor in international relations, particularly as they bear on the Far Eastern policy of the United States. The source material in the appendix is almost entirely new.

In *The Far East* Dr. Quigley has presented a clear, concise, objective account, based on sources, of the recent international relations of the Far East; he has interpreted the conflicting national viewpoints; and has analyzed and clarified the issues between the several states. It is hoped that this volume, with its accompanying collection of documents, will serve as a reliable guide for those who seek to find their way through the complicated maze of Far Eastern international politics.

George H. Blakeslee

Worcester, Massachusetts
June 20, 1938.

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I. POLITICAL CONDITIONS IN CHINA AND JAPAN

Conditions in China

In 1911 a revolution against the Manchu dynasty was successful. A republic was set up. For sixteen years it struggled to operate under a series of constitutions more or less democratic in character. In 1927 the first period of constitutionalism ended. Since that time China has had a government by a single political party, the Kuomintang or National Party. The change was marked by the transfer of the seat of government from Peking—renamed Peiping—to Nanking.[1]

Throughout the history of the Chinese Republic there have occurred sporadic civil wars. Civil government gave way to military at the revolution. It has never been fully restored though there has been progress toward restoration. The vast dimensions of the old empire worked against unity in national spirit and encouraged regionalism in the control of administration. The revolution threw this regional control into the hands of military men, some of whom were loyal to an ideal of a unified country. Many, unfortunately, were adventurers, seeking and acquiring huge fortunes at the expense of their countrymen. Provincial armies have contended with one another to the impoverishment of the people.

Since establishment of the National Government in

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[1] Holcombe, Arthur N., *The Chinese Revolution;* MacNair, Harley F., *China in Revolution.*

1927 this inter-regional warfare has gradually been brought to an end. The new capital has remained continuously in the hands of the Kuomintang. Civil warfare has not ceased but has taken the character of a struggle by the Kuomintang armies to put down revolts. By means of force and pecuniary subsidies this has been remarkably successful. Tremendous sums have been spent in the process, but its results may be worth the cost. However, this diversion of funds has retarded the social reforms that were promised when, in 1924, the rejuvenated National Party began its preparations to oust the *tuchün* (warlords) of the earlier republican period.

The most severe and lasting of the National Government's efforts toward unification has been the campaign against the Communist-led armies that broke away from the Kuomintang when it terminated its working understanding with the Communist Party of the Soviet Union in 1927. For nearly ten years this fighting was carried on, ceasing only when the fear of Japanese conquest compelled a compromise at the end of 1936. Although this fratricidal conflict was embittering and costly it had its favorable aspects. In the wake of the retreating Communist armies the provincial governments of central and western China were brought more definitely under the National Government's control. And the experience gained by the National armies, as well as the modernization of their equipment, were assets in the event of war with a foreign opponent.

The Kuomintang has organized the national and, so far as possible, the provincial and local government, upon the Soviet model, though it has rejected Marxian economic principles.[2] The party itself is small in comparison with the population, even with the literate portion of the people. And within the party a comparatively few men are dominant, exercising power through interlocking committees, councils and executive agencies. There is no congress or parliament and no popular suffrage. The laws are executive decrees framed by party committees. China is ruled by an oligarchy in which a single personage, Generalissimo Chiang K'ai-shek, is so powerful as closely to resemble a dictator.[3] This regime is maintained by military force, backed by the great bankers and the landlords. It has been wise in enlisting the services of able and enlightened young men from the universities.

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[2] Wu, C. F., *Chinese Government and Politics.*

In the provinces also the committee system prevails. As at Nanking, however, the actual authority is held by a few men or by an individual. Possession of an army determines the location of power. Each province is essentially autonomous, linked to the central government by personal ties rather than constitutional law. In the localities—the districts, cities and villages—administration by magistrates and elders is still maintained. There is, however, a closer control by the province over the localities than existed in the days of the empire.

Although China remains today a land of rule by persons rather than by law, that rule is revealed as one of growing enlightenment. Noteworthy public works have been constructed in recent years. The Canton–Hankow Railway has been completed and hundreds of miles of other lines built; nearly 50,000 miles of motor roads are now in use; extensive projects of river control and irrigation are under way; commercial aviation has had a remarkable development. Progressive policies also are reflected in the consideration given to rural rehabilitation—as yet largely in the planning stage,—to the suppression of opium cultivation, to currency reform, the development of co-operatives, scientific and historical research, the extension of publicly supported education, labor legislation, and reform of public health administration. Lack of funds, however, has prevented the execution of more than a minor portion of the great program of reconstruction that has been planned.[4]

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[3] Tong, Hollington K., *Chiang Kai-shek;* Berkov, Robert, *Strong Man of China.*

Unfortunately for a country involved in war with a major state, China's economic system remains, as a whole, medieval and its modern industrial plants have been seriously affected by foreign competition, civil warfare, natural calamities and other causes which have combined to bring the country into the world-wide depression. An index of industrial retrogression is the situation of the cotton mills. From 1930 to 1934 their volume of business dropped nearly 80%, raising doubts as to the capacity of the industry to survive.[5] The effects of this decline upon the laboring population have been disastrous. In the rural areas heavy taxes, exorbitant rents, expropriation of lands for public roads, forced labor and banditry have had similar depressing consequences for the peasantry.

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[4] Useful pamphlets on all phases of political, economic and social reorganization in China are issued as Information Bulletins by the Council of International Affairs, Nanking; also valuable are Hsü, Leonard, "Rural Reconstruction in China," *Pacific Affairs,* X, 249–265, Asiaticus, "The New Era in Chinese Railway Construction," *ibid.,* 276–288, T'ang Leang-li, *Reconstruction in China,* and the *Chinese Year Book,* 1935–36, and after; for a critical survey, see F. V. Field, "Chinese Reconstruction in Practice," *Far Eastern Survey,* December 19, 1936, 263–272.

[5] Wu, Leonard T. K., "The Crisis in the Chinese Cotton Industry," *Far Eastern Survey,* January 16, 1935; Condliffe, J. B., *China Today: Economic.*

CONDITIONS IN JAPAN

Japan's political development has been signally different from that of China.[6] For a thousand years previous to the middle of the last century its government and social order were feudal. The country was divided into hundreds of fiefs, each under a *daimyo* or great lord. The two-sworded *samurai* were his retainers, who fought for him and administered the local units of his little principality. Greatest of the *daimyo* was the *shogun*, who not only ruled large fiefs of his own but carried on the national government. An emperor of divine attributes but negligible authority maintained the appearance of an unbroken dynastic line. Lacking were the scholastic civil service of imperial China, the semi-autonomous provinces where imperial officials governed with the approval of gentry-landlords, and the village councils of self-chosen elders.

In 1867 the shogunate was abolished. Four years later the feudal system disappeared. The government was occidentalized. By the end of the century parliament (the Diet) was ten years old and political parties well established. The suffrage was liberalized gradually until virtually all men twenty-five years old or over were enabled to participate in national and prefectural elections. With the growth of great industrial and business corporations legislative policies felt their influence as candidates for the Diet sought their support. Labor emerged as a factor in industrial and political affairs. The Japanese state seemed very gradually to be evolving toward genuine democracy.

Underlying these surface trends, however, the deep current of feudalism still ran strong. While the Emperor was restored to the *seat* of power when the shogun vacated it, he was not restored to power. The great *daimyo* or the more vigorous *samurai* simply dropped outworn titles and methods of administration to assume the new offices and control the new councils. They saw to it that the Diet should be inferior to the cabinet, the cabinet inferior to the Privy Council, and that all three should be controlled by a half-dozen wise men from their own rank, the *Genro*. They dominated the army and navy and reserved to the military authorities the right to advise the Emperor on matters of national defense.

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[6] Quigley, Harold S., *Japanese Government and Politics.*

Not only did the lords of Choshu and Satsuma, and other great clan leaders, monopolize the high places in the civil administration and the armed forces, they also carried over into the new era the traditional respect and sense of dependence which feudalism had inculcated toward them in the masses of the people. To a certain extent this inheritance was deserved. Its unfavorable aspect lay in the retarding effect exercised upon the growth of individualism. The spread of literacy was nation-wide, but it has had slight political results because of this traditional devotion to the descendants of the *daimyo* and the *samurai*. Thus to priority of legal status was added the moral support of popular deference and confidence.

The reality of feudal survival has been remarkably demonstrated by events of the last six years. The army, and to a lesser degree the navy, have taken over the whole power of government without protest from the people.[7] The crisis appears to have thrown the Japanese back upon their ages-old mores for assurance of victory. Volumes of militarist propaganda, highly critical of the political parties, the Diet and the business community, and promising relief from economic ills, have been issued to intensify popular support for the policies of the supreme command. Military officers have stimulated the growth of so-called patriotic societies among old and young. Intimidation of the moderates not only in civilian ranks close to the throne but in the army itself, by methods of violence including assassination, has been resorted to by a group of super-patriots. Japan is a fascist state without a fascist party and without a dictator. The army, navy and patriotic societies stand in place of a party; the supreme command is a commission form of dictatorship.

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[7] Colegrove, Kenneth, *Militarism in Japan* (World Affairs Pamphlets, No. 16, World Peace Foundation, 1936).

Economic conditions in Japan are less hard than in China but the general situation is somewhat similar.[8] A depressed peasantry and proletariat and a large element of small business men support a comparatively small upper class of landowners and great capitalists and a costly military establishment. The pressure of the population upon the means of subsistence is less severe than in China only because industrialization has proceeded farther. But the rate of increase of the laboring population still outruns the expansion of the factory system, facing the country with an inevitable decline in its living standard if relief is not available. Lacking raw materials and opposed by foreign tariffs in its strenuous bid for markets, Japan has taken the path of imperialism. Lacking capital for competitive financial imperialism, it has adopted the older method of armed conquest.

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[8] Moulton, Harold G., *Japan;* Orchard, John E., *Japan's Economic Position;* Utley, Freda, *Japan's Feet of Clay.*

II. CHINA'S RELATIONS WITH JAPAN PRIOR TO 1931

The supreme issue today in the relations between the states of the Pacific area is the conflict of arms, bearing all the military aspects of war, in which China and Japan became engaged in July 1937. While this conflict has its roots in events and policies of the past half century, it derives immediately from the Japanese armed intervention in Manchuria and the establishment of the puppet state of Manchoukuo. From September 1931, when the intervention began, until June 1937, when large-scale hostilities broke out, relations between Japan and China were intermittently those of more or less troubled peace and of skirmishes in border regions of northern China. Not only has the Sino-Japanese impasse embittered the two peoples to the point of general though undeclared war; it has also nullified the promising developments of the post-Great War decade toward the unification and emancipation of China and the democratization of Japan.

Japan doubtlessly is more greatly interested in China than is any other country due to its geographical situation, its heavy investments and its dependence upon China's foreign trade. As it was well expressed by Yusuke Tsurumi, a Japanese liberal publicist and a member of the Imperial Diet, "Japan's vital issue in foreign affairs is China."[1] Japanese capital, it was

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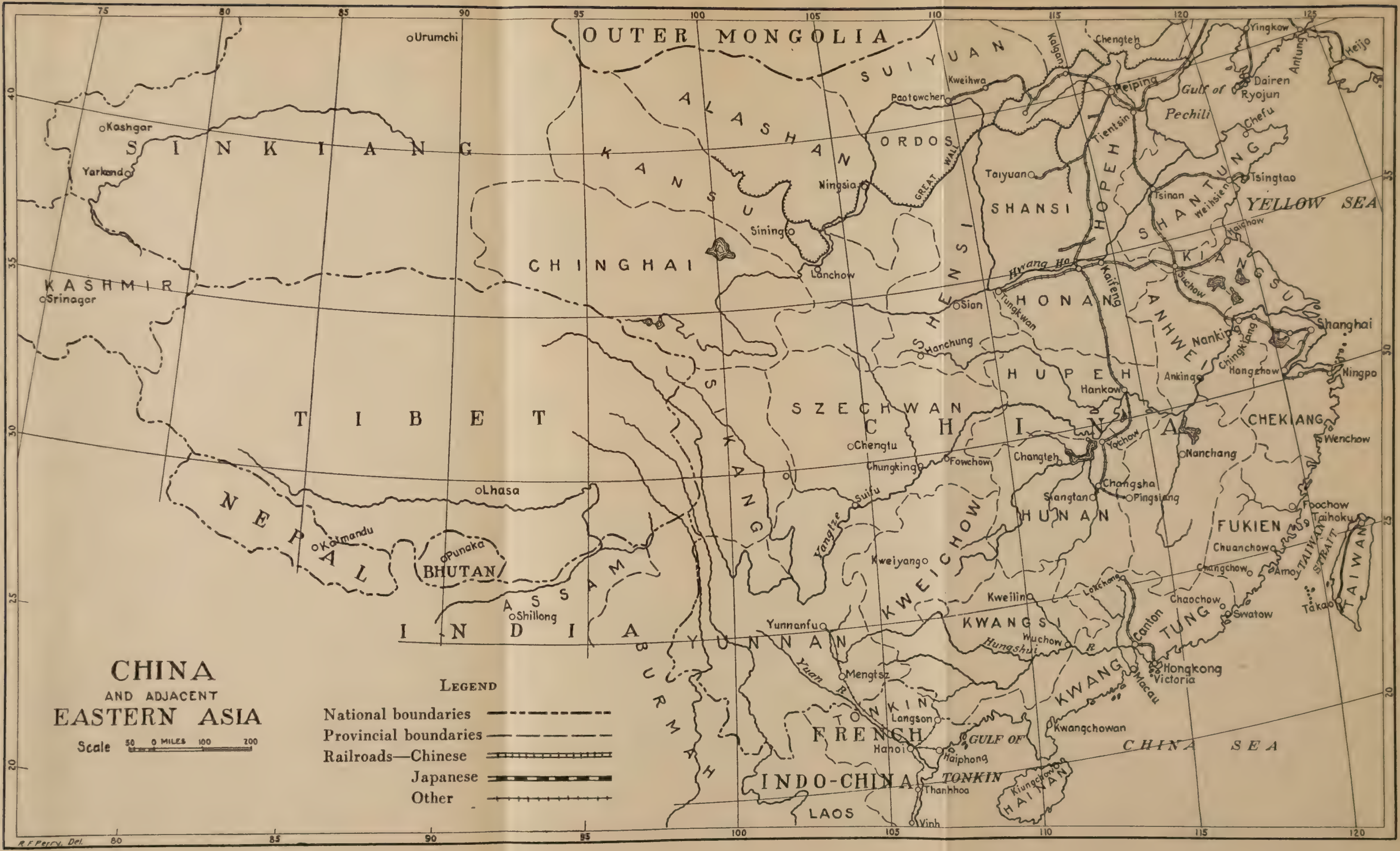
[1] "Difficulties and Hopes of Japan," *Foreign Affairs,* III (1924–25), 253–265; see also Hindmarsh, Albert E., *The Basis of Japanese Foreign Policy;* Ishii, Viscount, "Japan," in *The Foreign Policy of the Powers* (Council on Foreign Relations), 102; Chamberlin, William Henry, *Japan Over Asia;* Akagi, Roy H., *Japan's Foreign Relations, 1542–1936.*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estimated in 1931, had been invested in China, including Manchuria, to the approximate amount of over $1,000,000,000 (gold).[2] Japan's trade with China up to 1932 was much greater than that of any other state, greater even than China's combined trade with the United Kingdom and Hong Kong:[3] and the proportion which this China trade bears to Japan's total world trade is much larger than in the case of any other country. For the years 1913 to 1930 inclusive this proportion averaged 22% if the trade with Kwantung and Hong Kong is included.[4]

The underlying policy of Japan in recent years has been, avowedly, to develop a close economic entente with China as a whole, in order to obtain an assured supply of raw materials and a growing market for its manufactured goods, and to protect its special interests in Manchuria. Count Uchida, when minister for foreign affairs, stated in the Diet, "that with a large population in a small territory, Japan could only insure her existence by co-operating with China."[5]

But the methods of attempting to realize these aims have varied from time to time. In the period up to the Washington Conference, during which Japan appeared in part to wish to imitate "the policies of western powers on the Asiatic continent, namely, the extension of the sphere of influence and special privileges,"[6] the relations with China were characterized largely by force or the threat of force. During this period there occurred three wars: with China, 1894–95, over Korea; with Russia, 1904–05, over Manchuria and Korea; and with Germany, 1914–19, actually over Shantung. In this period, too, came the Twenty-One Demands, which were presented by the Japanese Government in 1915 to the President of China. They aimed to obtain for Japan special privileges of various kinds in China, particularly in the region of Manchuria. Although the most objectionable, known as Group Five, were temporarily withdrawn, most of the others were granted by China under pressure of a Japanese ultimatum containing a threat to use military force. Many of the leading Japanese appeared to regard these demands as unfortunate.

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[2] Professor Charles F. Remer's estimate for 1931 was a total of $1,136,900,000 gold, which was 35.1% of all foreign investments in China (*Foreign Investments in China,* 553).

[3] But not greater than that with the British Empire. *China Year Book,* 1928, 131–136; Field, F. V., *Economic Handbook of the Pacific Area,* 424.

[4] Remer, *op. cit.,* 460.

[5] *Japan Weekly Chronicle,* February 1, 1923.

[6] Tsurumi, Y., "Difficulties and Hopes of Japan," *Foreign Affairs,* III (1924–25), 262.

A new policy, however, developed from about the time of the Washington Conference and continued until the spring of 1927. This was popularly known as "the friendship policy," and was associated particularly with the name of Baron Shidehara, minister for foreign affairs during the latter part of this period. Evidence of this new attitude toward China was seen in Japan's withdrawal of its troops from Shantung and Hankow; the closing of its post offices throughout China; the remission of its share of the Boxer indemnity, which was to be used as a special fund for Chinese educational and cultural work; and its reluctance to use force to support its position in China.

But a different policy was adopted when General Baron Tanaka, the head of the opposition party, the Seiyukai, came into office in April 1927. This was known as a "positive policy," and appeared to be revealed in the sending of two military expeditions to

Tsinan, Shantung, in the summers of 1927 and 1928, and in a more vigorous assertion of Japan's special rights in Manchuria. This policy resulted in serious friction with China, a damaging anti-Japanese boycott, and public criticism by leading diplomats affiliated with the Minseito, one of the major political parties in Japan, notably by Baron Shidehara and former Ambassador Hanihara.[7]

The unfortunate affair was settled after protracted negotiations by the agreement of March 28, 1929. Japan withdrew its forces in accordance with the agreement, the government being widely criticized at home for obtaining none of the terms upon which it had publicly stated it would insist.[8] Shortly afterward the two governments exchanged notes settling the Nanking incident of March 24, 1927 and the Hankow incident of April 3, 1927.[9]

Another change in administration took place in July 1929, when the Minseito came into power, with Baron Shidehara once again minister for foreign affairs. The principal feature of the new cabinet's statement of aims was its insistence that Japan's policy toward China should be revised and placed "on the basis of good will and neighborliness"; it declared that the earlier policy of co-operation with China in the abolition or revision of the unequal treaties would be resumed, and that Japan desired "the coexistence and common prosperity of the two countries." The manifesto added:[10]

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[7] For Mr. Hanihara's article, see *Week in China,* May 11, 1929, XII, 353–358; for Baron Shidehara's address, *ibid.,* November 10, 1928, XII, 14–25.

[8] *Chinese Social and Political Science Review,* Public Documents Supplement, XIII (April 1929), 53. For the earlier notes exchanged between the Chinese and Japanese Governments, see *ibid.*, XII (July 1928), 49–58. For Japanese and Chinese statements to the League of Nations see its *Official Journal,* 1928, 792, and *Week in China,* May 12, 1928, XI, 28–29.

[9] *Chinese Social and Political Science Review,* Public Documents Supplement, XIII (July 1929), 62.

> Our government not only rejects a policy of aggression in any part of China but is prepared to render friendly aid to China for the attainment of the national aspirations of China, but it, of course, is the responsibility of the Government to protect and preserve the legitimate rights and interests that are indispensable to Japan's existence and prosperity. The Government believes that the Chinese people understand this point fully.

An important issue between China and Japan relates to the so-called Nishihara loans, which were advanced to the Peking Government between 1917 and 1920 by a syndicate of Japanese bankers formed at the instance of the Japanese minister of finance. One loan was for "war participation," the others were nominally industrial loans and by the terms of the various agreements were to be used for such purposes as building railways in Manchuria and in Shantung. Actually the money was expended by the Chinese military group then in control in Peking in financing themselves and their forces in the civil war. These Nishihara loans, which were guaranteed at least in part by the Japanese Government, were advanced without adequate security and went into default. They were considered among China's other financial obligations at the Peking tariff conference in 1925. Following this conference, the Japanese Government itself took over these loans in accordance with an act which passed the Diet, March 24, 1926, and urged that China make some provision for their payment. The Chinese Government refused to do this, maintaining that the loans were not made for legitimate economic purposes but for the object of gaining a special position for Japan in China.[11]

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[10] Manifesto of the Japanese Cabinet, July 9, 1929, *Japan Advertiser,* July 10, 1929.

The Minseito government gave way in December 1931 to a Seiyukai cabinet led by Premier Inukai. Throughout Baron Shidehara's tenure as foreign minister nationalist sentiment in China was stronger and more widespread than ever before. Dr. Chengting T. Wang, Chinese foreign minister, was a vigorous instrument of this natural effort toward independence and equality. Contributory to his partial success was the qualified acquiescence of Japan in China's attainment of tariff autonomy and recovery of jurisdiction in the International Settlement at Shanghai.[12] The tension with regard to Manchuria greatly interfered with negotiations on other issues.[13] Considerable feeling was aroused in Japan by the refusal of China to accept Torikichi Obata, secretary of legation in Peking when the Twenty-One Demands were presented, as Japanese minister.[14]

Baron Shidehara's annual address before the Diet on January 21, 1930, while mindful of the disturbed situation in China, was distinctly co-operative and sympathetic:[15]

> Nothing was more gratifying to us than to witness the measure of success which the Nationalist Government,

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[11] King-Hall, Stephen, *Western Civilization and the Far East,* 161–163; Willoughby, W. W., *Foreign Rights and Interests in China,* II, 1002; *China Year Book,* 1934, 551. In the latter article, Mr. E. Kann states that some of these advances have been converted into secured loans but that the major portion remain unrecognized. He estimated the latter at 330,000,000 yen, inclusive of accrued interest.

[12] Chapters X, XII.

[13] Chapter IV.

[14] *Japan Weekly Chronicle,* January 23, 1930, 77.

[15] *Ibid.,* January 30, 1930, 93.

> through tremendous efforts, was able to attain in 1928 in the great enterprise of effecting a national unification. . . . We are determined to exert our best efforts to regulate our relations with China on a basis which we believe to be just and fair. . . . If only out of sympathy for a neighboring nation laboring under one-sided limitations upon its sovereignty, as we have ourselves experienced at one time, it is but natural that we should make up our mind to help China by all the means at our disposal in an early removal of these restrictions . . . [However,] we owe it to ourselves to seek adequate assurances for the safety of our nationals residing in China and for the protection of the important economic interests which Japan possesses in relation to that country.

Following a general election the foreign minister again addressed the Diet, expressing gratification at China's attainment of tariff autonomy. After referring to the Sino-Japanese agreement to maintain specified rates upon a number of commodities, he made the following significant statement:[16]

> What we naturally desire is the stability of our trade with China. . . . China on her part finds it equally important to secure a market in Japan for certain classes of Chinese manufactures. These mutual desires have given rise to a scheme of reciprocal undertakings in regard to customs tariffs. *The arrangement marks a step forward toward the full realization of the principle of solidarity between Japan and China, and is but a natural outcome of the specially close economic relations existing between the two countries.* (Italics the author's)

During the serious civil warfare between Nanking and rebellious factions in 1930, extending into Shantung, the Japanese Government refrained from landing forces in the province. In view of the strife in central China a request by Foreign Minister Wang, on November 24, 1930, that the Japanese concession at Hankow be retroceded was viewed in Tokyo as inopportune.[17] The two governments, however, reached an agreement to extend contracts covering landing rights for Japanese cables for 14 years.[18] On January 22, 1931, Shidehara again expressed a conciliatory attitude toward China's reform efforts and indicated willingness to discuss the readjustment of Sino-Japanese relations upon a basis of mutual concession not perilous to national existence.[19] The attitude of the Kuomintang of China toward Japan was heatedly voiced on May 9, 1931 at the national constitutional convention in Nanking. While abolition of the unequal treaties was unanimously demanded, individual delegates denounced the Twenty-One Demands and urged the overthrow of Japanese imperialism.[20]

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[16] *Japan Weekly Chronicle,* May 1, 1930, 444.

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[17] *Current History,* January, 1931, 638.

[18] *Ibid.,* January, 1931, 638; February, 1931, 796.

[19] *Ibid.,* March, 1931, 960.

[20] *Japan Weekly Chronicle,* May 21, 1931, 563.

III. MANCHURIA: SINO–RUSSIAN RELATIONS

Manchuria had long been regarded as the danger zone of the Far East. It was the meeting point of the ambitions of three states, China, Japan and the Soviet Union, each of which had interests and policies in this great region which were in conflict with those of the other two.[1]

Manchuria, called by the regime existing since 1932 Manchoukuo, is a large, wealthy, fertile area only partially developed and settled. In size it is nearly as large as France and Germany combined. Its wealth consists of valuable natural resources—timber and minerals—especially extensive deposits of coal and a fair supply of iron ore. It is well adapted for agricultural produce; in many respects it is similar to the great grain sections of our own Northwest. Particularly notable has been the development of the soya bean: Manchuria in 1930 raised over 5,000,000 metric tons of beans, or 60% of the world's supply.[2]

Its trade with other parts of China and with foreign countries had risen in 23 years from 60,000,000 Haikwan taels in 1907 to nearly 704,000,000 in 1930.[3] Most remarkable has been the large recent immigration. During the Manchu period the central and northern parts of the region were largely unsettled, but in the years 1923–30 inclusive an immense number of Chinese poured into the country. During those years nearly 5,700,000 Chinese entered Manchuria, nearly half of whom settled there. The total population in 1930 was estimated to be nearly 30,000,000.[4] Chinese and assimilated Manchus numbered about 28,000,000, Koreans 800,000, Japanese 230,000.[5] It was stated by some of the experts at the Institute of Politics at Williamstown in 1928 that Manchuria could support a Chinese population of 100,000,000 on the same standard of living as that existing in other parts of China. There are certainly great possibilities for further development.

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[1] Lattimore, Owen, *Manchuria, Cradle of Conflict;* Young, C. Walter, *The International Relations of Manchuria;* Clyde, Paul H., *International Rivalries in Manchuria,* 2d ed.

[2] *Manchuria Year Book,* 1932–33, 110. [3] *Ibid.,* 321–322.

Manchuria was admittedly a part of China, although for some years it had enjoyed a large measure of actual autonomy. Both Russia and Japan, however, had been granted by treaty exceptional and valuable privileges within it. The most important of these were railroad concessions, which in turn had led to further grants of various kinds, and for a time to the partition of the country into Russian and Japanese spheres of interest. The railroad history in brief is that in 1896 China granted to Russia the right to build and lease a line across central Manchuria to be a part of the great trans-Siberian system. In 1898, an additional concession gave Russia the right to extend this road south from Harbin to Port Arthur, and granted Port Arthur and the adjoining land on the Liaotung Peninsula by lease for 25 years. After the Russo-Japanese War, Russia's rights in South Manchuria, including the leasehold and the railroad from Port Arthur as far north as Changchun, were transferred to Japan. By subsequent treaties Russia and Japan agreed between themselves to consider Manchuria as divided into spheres of interest, the central and northern part being assigned to Russia and the southern part to Japan. With the rise of the Nationalist movement, China sought to regain these exceptional concessions from both the Soviet Union and Japan.

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[4] *Manchuria Year Book,* 1932–33, 13; *China Year Book,* 1931–32, 3.

[5] League of Nations, Appeal by the Chinese Government, *Report of the Commission of Enquiry,* 25 (C. 663.M.320.1932.VII.12). Hereafter cited as Lytton Report.

SINO-SOVIET RELATIONS

The relations between Russia and China in Manchuria centered for over 30 years in the Chinese Eastern Railway.[6] The acute situation which seemed to develop so suddenly in July 1929 goes back to May 1896, when in the secret treaty of alliance between China and Russia, sometimes termed the "Li-Lobanov treaty," the Chinese Government promised to permit the Russo-Chinese (later Russo-Asiatic) Bank to construct a railroad across central Manchuria in the direction of Vladivostok,[7] as an essential link in the Russian trans-Siberian line. The Russo-Chinese Bank had already been chartered by the Russian Government, December 22, 1895. Although a Russian joint-stock company, French financial groups invested heavily in it and it was stated in 1927 that the French interests amounted to 60%.[8] It was in large measure a governmental agency; the Russian minister of finance had general supervision of the operations of the bank and the confirmation of the nomination of the directors.[9]

With this Russo-Chinese Bank the Chinese Government signed a contract, September 8, 1896, granting it the right to construct and operate the railroad across Manchuria. The contract provided that the bank should establish for this purpose a new company under the name of the Chinese Eastern Railway Company. To it the Chinese Government transferred "the complete and exclusive right to operate the line on its own account and risk . . . [for a period of] 80 years from the day on which the line is finished and traffic is in operation. This period having elapsed, the line with all its appurtenances will pass free of charge to the Chinese Government." Since the line was opened in 1903, it would have reverted to China in accordance with the terms of the contract in 1983. The contract stipulated further that after 36 years from its completion: "the Chinese Government will have the right to buy back this line upon repaying in full all the capital involved as well as all the debts contracted for this line plus accrued interest. . . . In no case may the Chinese Government enter into possession of this line before the appropriate sum is deposited in the Russian State Bank." In 1939, therefore, the Chinese Government would have had the legal right to purchase the Chinese Eastern Railway. The shares of the company could be acquired only by Chinese or Russian subjects, although as a matter of fact no Chinese did acquire any of them. It was also stated that the company might hold "the lands actually necessary for the construction, operation and protection of the line"; and it was stipulated that "the company will have the absolute and exclusive right of administration of its lands," a provision which was used by Russia to justify its political control of the whole railroad zone. To assist in the construction of the line, the Chinese Government paid to the bank 5,000,000 Kuping taels, with the promise that it should share in proportion to this payment in the profits and losses of the bank; and that a sum of the same amount should be returned to China "the day when the line is finished and the traffic is in operation."[10]

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[6] Sokolsky, George E., *The Story of the Chinese Eastern Railway.*

[7] *Conference on the Limitation of Armament, Washington, 1921–22,* 1414.

[8] Toynbee, Arnold J., *Survey of International Affairs,* 1925, II, 338; Weigh, Ken-shen, *Russo-Chinese Diplomacy,* 56.

[9] Carnegie Endowment for International Peace, Division of International Law, *Manchuria: Treaties and Agreements,* 17–27.

From the building of the railway until the Soviets came into power in Russia the bank and the Chinese Eastern Railway Company functioned as agencies of the Russian Government. In 1918, however, the Soviets nationalized all banks in Russia, including the Russo-Asiatic. Since this action injured the French stockholders and bondholders, the French Government permitted the reorganization of the bank to be effected in Paris. The reorganized bank was naturally hostile to the Soviet regime, but it definitely recognized that the actual ownership of the Chinese Eastern Railway was vested in the *de jure* Russian Government. A letter from the Russo-Asiatic Bank to the Russian ambassador in Paris, March 18, 1918, read in part:

> . . . as soon as there shall be formed and recognized by the Allies a lawful Government the rights in the Chinese Eastern Railway belonging to it shall again revert to such Government automatically, i.e., when the Russian Government shall demand it.

An agreement was signed October 2, 1920, between the Chinese Government and this reorganized anti-Soviet Russo-Asiatic Bank, whose head office was for the time being in Paris, by which China assumed "provisionally, pending such arrangement concerning the railway as the Government may reach with the Russian Government that may be recognized by China, the supreme control exercised over the said railway by virtue of the contract and of the regulations in force."[11] This

[10] *Manchuria: Treaties and Agreements,* 13–17.

[11] *Ibid.,* 210–220.

action was protested by the Soviet Government which was not recognized by China at the time.

At the Washington Conference the status and the physical condition of the Chinese Eastern were considered. A subcommittee of technical advisers on this road reported:[12]

> The necessary funds for its construction were furnished by the Russian Government and it was built under the direction and supervision of that Government acting through the Chinese Eastern Railway Company. The railway is in effect the property of the Russian Government. China has certain ultimate reversionary rights which are provided for in the original contract of 1896.

The conference regarded China's supervisory control as in the nature of a trust pending the re-establishment of a generally recognized Russian Government, and all the conference governments except China voted that they reserved "the right to insist hereafter upon the responsibility of China for the performance or nonperformance of the obligations toward the foreign stockholders, bondholders and creditors of the Chinese Eastern Railway Company."[13]

The Chinese Eastern Railway was under the supervision of an inter-allied committee from January 1919 to October 1922. But the only significance of this supervision for more recent controversies is the fact that certain of the Governments, including those of Japan and the United States, advanced large sums to the railway which were later made the basis of claims against the company.

China and the Soviet Union signed an agreement on general principles, and an agreement for the provisional management of the Chinese Eastern Railway at Peking, May 31, 1924.[14] These documents provided that the railway was "a purely commercial enterprise" which was to have direct control of the business operations of the line, but that Chinese authorities were to have jurisdiction over "judicial matters, matters relating to civil administration, military administration, police, municipal government, taxation and landed property." It was stipulated that the Soviet Union "agrees to the redemption by the Government of the Republic of China with Chinese capital of the Chinese Eastern Railway, as well as all appurtenant properties, and to the transfer to China of all shares and bonds of the railway", the details of the transfer to be arranged at the conference scheduled to be held shortly between the two states. The management of the railway was divided as equally as possible between the Russians and Chinese; and the board of directors consisted of 10 members, five Chinese, including the president, and five Russians. Nationals of the two countries were to be employed on the road in accordance with the principle of equal representation. The manager of the road, however, who was the most important official, was to be a Russian. Of particular importance as it has turned out was Article VI of the agreement on general principles, by which each state pledged itself against propaganda in the territory of the other:[15]

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[12] *Conference on the Limitation of Armament,* 1376.

[13] *Ibid.,* 1658.

> The Governments of the two Contracting Parties mutually pledge themselves not to permit, within their respective territories, the existence and/or activities of any organiza-

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[14] With these might be included the Mukden agreement of September 20, 1924, although its legal status was doubtful.

[15] For these agreements and accompanying documents, see League of Nations, 37 *Treaty Series,* 175, 193; *China Year Book,* 1924, 1192–1200.

> tions or groups whose aim is to struggle by acts of violence against the Governments of either Contracting Party.
>
> The Governments of the two Contracting Parties further pledge themselves not to engage in propaganda directed against the political and social systems of either Contracting Party.

These agreements were made with the Chinese Government at Peking. But, since Manchuria at the time was under the practically autonomous rule of Marshal Chang Tso-lin, who did not recognize Peking, the Soviet Union made a separate agreement with him September 20, 1924. Vigorous protests were registered against these railway agreements. Japan and the United States protested because their interests in the road, based on their advances of money and materials, had not been recognized. China replied that claims such as these would not be affected by the new agreement with the Soviet Union.[16] France claimed that the predominance of French capital in the Russo-Asiatic Bank gave it a contingent interest in the railway, but the Chinese Government declared that the bank was a purely Russian company and not subject to French protection. More significant, possibly, was the protest of the Russo-Asiatic Bank that its rights as owner of all the stock of the Chinese Eastern Railway had not been respected.[17] A notable feature of the agreements of 1924 is that they were made, not with the Russo-Asiatic Bank as in 1896 and 1920, but with the Soviet Government. In the judgment of some, the Soviet Union and not the bank was thus recognized as owner of the railway.[18]

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[16] For a discussion of the validity of these protests, see Deane, Frederick, "The Chinese Eastern Railway," *Foreign Affairs,* III (1924–25), 147.

[17] Good accounts of this tangled history may be found in Willoughby, *op. cit.,* I, Chap. XV; Toynbee, *op. cit.,* 1925, II, 337–346.

From 1924 to 1929 there was a struggle between the Soviet and the Chinese Governments for actual control of the railway. At first the Soviets gained the advantage. After the directors of the railway company, according to the terms of the agreement of 1924, had elected a Russian general manager, the Russian members consistently absented themselves from the meetings of the board, thus preventing a quorum (seven) and leaving practically full control of the road in the hands of their general manager. This situation remained for some time, since the conference, which was to meet a month after the signing of the agreement of May 31, 1924 did not convene until August 26, 1925, and finally adjourned without coming to any permanent settlement of the railway problem.[19] Serious difficulties developed between the Russian manager and the local Chinese authorities.

Subsequently the Chinese were able to take over the control of important activities of the Chinese Eastern Railway. In February 1926 they abolished the Municipal Council in the Russian city, or section, of Harbin and instituted a Chinese administration. Later they took possession of the river fleet of the railway company, took over certain of the schools which it had maintained in the railway zone and forced or persuaded the Russians to make frequent divisions of the net income of the line, which was large—this money could hardly be termed profits, since no interest was paid on the bonds or dividends on the stocks. Finally they seized the railway itself.

The occasion which led China to take over the administration of the Chinese Eastern Railway system was the communist propaganda carried on by Russian officials and railway workers in Manchuria. On May 27, 1929 Chinese police raided the Soviet consulate general in Harbin and found and arrested over 80 persons who were attending a propaganda conference of the Third International (Comintern). According to the official Chinese statement, 42 were members of the staffs of various Soviet consulates, including the Soviet consuls general at both Harbin and Mukden. Thirty-nine were important officials of the Chinese Eastern Railway and of Soviet organizations in Manchuria.[20] The Soviet Government on May 31 protested against the raid, the arrest of the Russians and the seizure of documents.[21]

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[18] Sforza, Count Carlo, "Imperialistic Russia in China," *Foreign Affairs,* VI (1927–28), 67; Willoughby, *op. cit.,* I, 446.

[19] For the conference, see *China Year Book,* 1926, 1096–1101.

The climax came July 10 and 11 when the Chinese authorities dismissed the Russian general manager, the five directors and all other important officials, arrested many of the Russians, and closed all Soviet organizations. The Chinese president of the board of directors of the railway issued a statement explaining that this action was due to the repeated and long-continued violation by the Soviet Union of the agreement of 1924, especially to the communist propaganda carried on contrary to Soviet pledges in the agreement. He said:[22]

> Moreover Soviet communist propaganda through all agencies connected with the railway is proved by documentary evidence seized in the recent raid of the Soviet

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[20] "A communication of the National Government of the Republic of China to the signatories of the treaty for the renunciation of war," August 21, 1929, *New York Times*, August 22, 1929.

[21] *Week in China*, June 8, 1929, XII, 472–473; *North China Herald*, June 8, 1929, 382; *L'Europe nouvelle*, August 3, 1929.

[22] *New York Times*, July 12, 1929.

consulate general in Harbin. Consequently I am constrained to take the present drastic measures to safeguard China's interests in the Chinese Eastern Railway.

The Soviet Government sent a three-day ultimatum, July 13, to the Chinese Government demanding that the Chinese authorities should at once cancel all arbitrary orders regarding the Chinese Eastern Railway, release the Soviet citizens who had been arrested, and cease all persecution of Soviet citizens and institutions; it proposed that the two Governments should call a conference immediately to settle all questions regarding the railway. The note maintained that the acts of the Chinese were clearly illegal.[23] In reply the Chinese Government at Nanking on July 17 defended what had been done regarding the railway on the ground that the Soviet authorities had not carried out faithfully the provisions of the agreement of 1924 especially as to propaganda.[24] The Soviet Government on July 18 characterized this reply as "unsatisfactory in content and hypocritical in tone," and broke off the few remaining diplomatic and consular relations with China.[25] China did likewise. Informal negotiations, however, were soon initiated between the Soviet and Chinese officials, but the Chinese Government refused to accede to the Soviet demand that the Chinese Eastern Railway be restored to its former status before the convening of a formal conference.

Efforts by the German Government at mediation proved fruitless. Incursions of armed forces from either territory began and gradually increased in scope and vigor. General Vasili Bluecher, previously adviser to Chiang K'ai-shek, was made commander-in-chief of Soviet forces in Eastern Siberia.[26] The growing tension prompted the American Government, after conversations with the representatives of several states, to appeal directly to the Chinese Government, and through the French foreign office to the Soviet Government, for the application of the Pact of Paris. This occurred on July 18 and again on December 2, 1929 and was supported by the British and French Governments. In the second communication the American Government said, in part:[27]

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[23] *New York Times,* July 15, 1929; *L'Europe nouvelle,* August 3, 1929, 1078.

[24] For this statement and documentary evidence of communist activities see *Chinese Social and Political Science Review,* XIII (1929), Public Documents Supplement, 116–158.

[25] *New York Times,* July 18, 1929; *L'Europe nouvelle, loc. cit.,* 1081; *Week in China,* July 20, 1929, XII, 572.

> The Government and people of the United States have observed with apprehensive concern the course of events in the relations between China and Russia in the phase which has developed in reference to the situation in Northern Manchuria since July 10.
>
> . . . The American Government feels that the respect with which China and Russia will hereafter be held in the good opinion of the world will necessarily in great measure depend upon the way in which they carry out these most sacred promises.

A vigorous denial of any breach of the Pact was made by the Soviets, which explained their use of force as purely defensive. Their reply, dated December 3, bristled with resentment. It stated that peace negotiations with the Mukden Government were well under way and that the American declaration, "in view of this fact, cannot but be considered unjustifiable pressure on the negotiations and cannot therefore be taken as a friendly act." The Soviet Government refused to "admit interference of any other party in these negotiations or the conflict." [28]

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[26] Known in China as Galens; A. A. Riajansky states that this name was Ga Lin. (*China Weekly Review,* May 2, 1936, 306.)

[27] Department of State, *Press Releases,* December 7, 1929, 83; *Current History,* January, 1930, 758–759; for an explanation of American action see Hornbeck, Stanley K., "American Policy and the Chinese-Russian Dispute," *Chinese Social and Political Science Review,* XIV (1930), 41–60.

A protocol was signed on December 3, 1929 by Tsai Yun-sheng, representing the Manchurian Government, and M. Simanovsky, Soviet representative, which embodied an understanding regarding the positions of chairman of the board of directors and manager of the Chinese Eastern Railway.[29] On December 22, 1929 a second protocol was signed by the same negotiators at Habarovsk, restoring the situation prior to the Chinese seizure of the railway, providing for release of prisoners, restoration of consulates and resumption of commercial relations.[30] The Chinese Government at Nanking on February 8, 1930 issued a statement recognizing Mr. Tsai as its official representative and approving the Habarovsk protocol as a *modus vivendi* relative to the railway dispute but declaring that Mr. Tsai acted *ultra vires* in discussing other matters of a general character. The Government was prepared, however, to negotiate upon such matters with a Soviet representative, should one be sent to China for that purpose.[31]

The attitude of Nanking forced postponement of the conference at Moscow, originally arranged to meet on January 25, 1930 for a final settlement of the railway controversy. The conference began in October

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[28] *Current History,* January, 1930, 759–760.

[29] *Ibid.,* January, 1930, 761.

[30] *Chinese Social and Political Science Review,* Public Documents Supplement, XIV (No. 2, 1930), 25–28.

[31] *Ibid.,* 28–29; *China Year Book,* 1931, 495–498.

1930, Mo Te-hui, president of the C.E.R., traveling to Moscow to represent China. Progress was extremely slow as Nanking was unwilling to discuss issues relating to trade and diplomatic relations, preferring to confine negotiations to the railway question. The parties also disagreed as to whether or not the Habarovsk protocol re-established or altered the *status quo* embodied in the agreement of 1924.[32] The fundamental difficulty, however, appears to have been the desire of the Chinese delegate to arrange for the purchase of the railway. Apparently there were conflicting views within the Soviet Government as to the wisdom of relinquishment.[33] No settlement on this point, and consequently no final agreement, had been reached when in September 1931 the Japanese intervention occurred and negotiations were brought to an end.

SOVIET-JAPANESE RELATIONS

Soviet-Japanese relations in Manchuria fluctuated between war and close military alliance. Japan fought the war of 1904–05 in part to prevent Russia from absorbing Manchuria. But after obtaining the Liaotung leasehold and the railroad concessions in South Manchuria, Japan signed with Russia a series of treaties in 1907, 1910, 1912 and 1916, by which the two empires divided Manchuria into spheres of interest, and promised to support each other by military force, if necessary, in the maintenance of their respective claims.[34] After the Great War Japan, however, adopted a policy of railroad expansion in co-operation with the Chinese in the central and northern parts of Manchuria, the region which was formerly recognized as a Russian sphere. The Soviet Government protested against the building of certain of these railroad lines, particularly the one extending to Anganchi (near Tsitsihar) on the Chinese Eastern Railway. It proposed to Japan in 1926 that the two governments should revive their former spheres of interest, but the Japanese authorities are said to have replied that spheres of interest in China were done away with at the Washington Conference.[35]

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[32] *China Year Book,* 1931, 498–500.

[33] *Ibid.,* 1931–32, 266–267.

[34] For the texts of these treaties, including certain of the secret agreements, see *Manchuria: Treaties and Agreements,* 116–117, 141–143, 183–184; for a concise interpretation, see Price, Ernest B., The *Russo-Japanese Treaties of 1907–1916 Concerning Manchuria and Mongolia.*

When the seizure of the Chinese Eastern Railway took place in July 1929, the Japanese Government called the attention of the parties to their obligations under the Pact of Paris, but declined to participate with other signatories of the Pact in December in the invocation of that instrument.[36] In the midst of the controversy it stated the conviction that the Soviet Union was acting defensively and had no aggressive purpose in mind.[37] This line of action harmonized with Japan's interest in the South Manchuria line, which outweighed its concern regarding the evidence of communist activities unearthed by the Chinese authorities in the offices of the Chinese Eastern. It could hardly condone the expropriation by China of the latter without undermining its own rights in Manchuria.

That the Japanese Government was somewhat apprehensive of the effects of communist propaganda in Manchuria is revealed in the statement prepared by it for the Lytton Commission:[38]

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[35] Toynbee, *op. cit.,* 1925, 256.

[36] *Current History,* October, 1929, 197; January, 1930, 759.

[37] Yakhontoff, Victor A., *Russia and the Soviet Union in the Far East,* 250.

[38] Japan, Foreign Office, *Relations of Japan with Manchuria and Mongolia,* Document B, 26–27. Document B is part of the material submitted to the League of Nations Commission of Inquiry, 1932.

. . . Above all, in view of her geographical position, Japan is most deeply concerned with the not impossible "bolshevization" of Manchuria and Mongolia. Were the two regions to turn communistic, it would immediately disturb the peace and order of Korea, which in its turn would affect the peace and order of Japan Proper. . . . Fortunately up to the present the activities of the Third International and the Chinese Communist Party in the two regions have not borne much fruit. This is accounted partly for [*sic*] the strong, though invisible, pressure exercised by Japan. . . .

IV. MANCHURIA: SINO–JAPANESE RELATIONS

FUNDAMENTAL DIVERGENCE IN VIEWPOINT

The most difficult and the most vital issue in Manchuria—and in the entire Far East prior to September 18, 1931—was that between China and Japan. It involved a fundamental difference of viewpoint as well as a large number of concrete, perplexing problems.[1] This fundamental divergence, moreover, was intensified by strong national sentiment on both sides.

To the Chinese the main issue was: "Shall Manchuria, a part of our homeland, be Chinese or Japanese?" They believed that Japan was trying to take part at least of the country from them. They were determined to prevent the further expansion of Japan's interests in Manchuria and to regain the concessions already granted. A typical view was expressed by one of the foremost Chinese in Peking when he said, "we are too weak to do much now but it may well mean war in the days of our children."

To the Japanese the issue was: "Shall the rights won in South Manchuria by great national sacrifices in two wars, and now held rightfully and legally, be respected or be seized from us?" They did not forget that the battlefields of the Russo-Japanese War lie from Port Arthur to Mukden along the route of the South Manchuria Railway. To interpret their attitude they sometimes said, "the South Manchuria Railway is our Panama Canal," and "Japanese have the same feeling toward South Manchuria as Americans would have toward Panama if they had fought their greatest national war to obtain it." Some Americans, therefore, believed that in national sentiment South Manchuria was to Japan what both Panama and Gettysburg are to America.

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[1] Young, C. Walter, *Japan's Special Position in Manchuria; The International Legal Status of the Kwantung Leased Territory; Japanese Jurisdiction in the South Manchuria Railway Areas.*

Japan's vested interests in Manchuria comprised the lease of the Liaotung Peninsula, the South Manchuria Railway and other economic and financial enterprises. The leased territory, which contains Port Arthur and Dairen, although but a very small part of Manchuria as a whole, comprises an area slightly larger than the state of Rhode Island. Originally granted to Russia for 25 years, it was transferred to Japan in 1905. In 1915 the lease was extended to 99 years. The railway owned and operated lines totaling 695 miles. By the terms of the original Russian contract with China, the road would revert to China after 80 years from its opening to traffic, but by a treaty in 1915 it was stipulated that the date for its restoration should be the year 2002.[2]

The South Manchuria Railway Company is controlled by the Japanese Government through its ownership of 50% of the stock and through the appointment of the leading officials of the company by the administration in power in Tokyo. The total capital investment made by Japanese in Manchuria, amounted at the end of 1930 to about 1,617,000,000 yen;[3] and if to this be added the government property owned by the Kwantung Government (Japanese leased territory) and the Japanese army, the annual grant from the home Government, private property owned by Japanese residents in Manchuria, etc., the total investment of Japan in Manchuria amounted to more than 2,000,000,000 yen. That was approximately $1,000,000,000 (gold). The railway, the great port of Dairen, the company's towns in the railway zone, its mines, factories, hotels and other enterprises were administered on an exceptionally high plane of order and efficiency.

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[2] For original contract, 1898, see MacMurray, John V. A., *Treaties and Agreements with and concerning China,* I, 119; for transfer to Japan, *ibid.,* 550, 552; for extension of the leases, *ibid.,* II, 1220.

[3] *Manchuria Year Book,* 1932–33, 426.

Japan naturally wished to maintain these vested interests and also the opportunity to co-operate with the Chinese in the further economic development of the whole region. In these desires there appeared to be substantial unanimity in Japan, notwithstanding differences of view regarding the details of the Manchurian policy. Practically all Japanese stressed the vital importance to them of their economic interests in Manchuria. Many of them, moreover, felt that under existing conditions in China, it was necessary to maintain for the time being their political interests as well; while some pointed to the strategic value of Manchuria in case of serious difficulties with the Soviet Union. All responsible leaders, however, insisted that Japan desired neither to seize territory in Manchuria, nor to make of it a protectorate. But the Chinese leaders did not recognize Japan's position in Manchuria as justified either morally or legally; to them it seemed that Japan was keeping property and rights which belonged to China. And they believed that in whatever guise it appeared, whether of diplomatic manoeuvers or of military threats, the ultimate purpose of Japanese policy was the absorption of Manchuria.

THE CONCRETE ISSUES

This difference in viewpoint was shown in a number of concrete issues, particularly as to the validity of the extension to 99 years of the lease of the Liaotung Peninsula and the concession to the South Manchuria Railway; the treaty right of the Japanese to lease land in South Manchuria; the alleged right of Japan to maintain railway guards; and a tangle of conflicting claims as to new railroads.

The Chinese maintained that the treaty of 1915 [4] extending the lease and the concession to 99 years was not morally binding since it was made under threat of force in time of peace without any *quid pro quo* and was not ratified by the Chinese Parliament according to the Chinese constitution. The Japanese maintained that, although "it is evident that no nation can have given ready consent to cessions of its territorial or other rights of importance," yet all the Sino-Japanese treaties of 1915 are valid since they were "formally signed and sealed by the duly authorized representatives of the two Governments, and . . . the exchange of ratifications was effected in conformity with established international usages." [5]

The original lease of the Liaotung Peninsula would have expired in 1923. Shortly before the date arrived, the Chinese Government sent a note to the Japanese Government dated March 10, 1923 stating that the treaties of 1915 were void and asking the Japanese Government, in view of the early expiration of the original lease, to appoint a day for the discussion of the transfer of the administration of Dairen and Port Arthur to China. The Japanese Government replied that the lease had been legally extended to, and would be in force for, 99 years.[6]

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[4] MacMurray, *op. cit.,* II, 1220.

[5] *Conference on the Limitation of Armament,* 324–338; Willoughby, *op. cit.,* I, Chap. VIII. (The Chinese Government did not question the technical legal validity of the treaty. It claimed rather that it should be cancelled because of its "essential injustice" which raised a question as to its "fundamental validity.")

The Japanese claimed the right to lease land in South Manchuria as granted to them in the treaties of 1915, but the Chinese authorities refused the necessary permits.

Japan was maintaining railway guards along the South Manchuria system but China insisted that there was no treaty basis for this privilege. Russia formerly maintained railway guards, basing its right upon a clause in the contract between China and the Russo-Chinese Bank which read that the Chinese Eastern Railway Company "will have the absolute and exclusive right of administration of its lands"[7]—a clause which the Chinese insisted granted no such privilege. In the Portsmouth treaty, 1905, Russia and Japan reserved the right to maintain railway guards "not to exceed 15 men per kilometer," which gave Japan the right—so far as the Soviet Union was concerned—to keep in South Manchuria a total of about 15,000 men. China stated that it did not give its assent to the particular provisions of the Russo-Japanese treaty regarding railway guards.[8] However, in Article II of the additional agreement between China and Japan, December 22, 1905, is the provision upon which Japan based its right to maintain these troops:[9]

> . . . the Imperial Japanese Government, in the event of Russia agreeing to the withdrawal of her railway guards,

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[6] Willoughby, *op. cit.*, I, 242–243.
[7] MacMurray, *op. cit.*, I, 76.
[8] *Ibid.*, I, 526. [9] *Ibid.*, I, 551.

or in case that other proper measures are agreed to between China and Russia, consent to take similar steps accordingly. When tranquillity shall have been re-established in Manchuria and China shall have become herself capable of affording full protection to the lives and property of foreigners, Japan will withdraw her railway guards simultaneously with Russia.

China insisted that it was now capable of affording the full protection demanded; Japan denied that and maintained the railway guards.[10]

Railroad Controversies

Disputes over railroad expansion were the most important of the many concrete differences which disturbed the relations of Japan and China in Manchuria.[11] The issue was whether Japanese were to participate with Chinese in building the new railroads or whether Chinese were to build all these lines independently; Japan was not attempting to extend the South Manchuria Railway; the difficulty related entirely to new railroad development.

Japanese interests had had a large part in building new lines both to the east and the west of the main South Manchuria system. To the west they had shared in constructing new railroads which start from the South Manchuria main line at Ssupingkai, south of Changchun, and extend in a northwesterly direction via Chengchiatun and Taonan to Anganchi on the Chinese Eastern Railway. These lines were built in three sections, at three different times and under various contracts with

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[10] Willoughby, *op. cit.,* Chap. XXXIII; *Conference on the Limitation of Armament,* 1004–1008, 1088–1100.

[11] For an authoritative Japanese account of the railroad situation in Manchuria, just prior to the Sino-Japanese hostilities, see South Manchuria Railway, *Report on Progress in Manchuria,* 1907–32.

Japanese interests. To the east starting at Changchun two connecting roads extended over 200 miles in the direction of the Korean border. In each case a Chinese company had the legal ownership of the railroad, but the extent of Japanese participation in these various enterprises had varied. In general, some Japanese interest—usually the South Manchuria Railway Company—had advanced the money, built the road on contract, obtained the privilege of being purchasing agent and, after the completed line had been handed over to the Chinese company, had retained loans secured on the road and also the right of appointing a number of Japanese officials on the railway staff. The Chinese were in 1931 operating all of these lines with the single exception of the Changchun-Kirin section which in 1917 was turned over to the South Manchuria Railway Company to administer under contract for a period of 30 years.[12]

These new lines were a distinct advantage to the South Manchuria Railway Company as well as to other Japanese interests, for they opened and helped to develop large areas of the country. Since these roads had the standard gauge, narrower than the Russian Chinese Eastern but the same as the South Manchuria, they were direct feeders for the latter line. The new roads meant more freight for the South Manchuria system. Japanese participation in financing these undertakings brought the same general advantage which normally comes from taking part in the economic development of a new, rich country.

The Chinese were refusing, however, to continue this system of co-operation with the Japanese and were building a number of new lines of their own with Chinese capital and under Chinese management. For some years they had had a trunk line from Peking to Mukden which was entirely Chinese, though financed in considerable part with British capital. Recently over 550 miles of new lines, exclusively Chinese, had been built. Other roads were under construction and many were projected. There had also been considerable discussion of developing a port at Hulutao on the Chinese Railway from Mukden to Tientsin in order to have a Chinese seaport with which to compete with the Japanese leased port of Dairen. Of the new lines, the one from Hulan to Hailun was completed and in operation December 15, 1928.[13] It promised to be the first part of an extensive railroad system in northern Manchuria, a section which offers great opportunities for development. Another line ran northeast from Mukden via Hailungcheng to Kirin which was on the Japanese leased line from Changchun. This entire railway was opened to traffic May 12, 1929.[14] A third important Chinese line, opened in 1927, started from Tahushan, west of Mukden on the Peking–Mukden Railway, and ran northwest to Payintala where it made connection with other lines which go through to Anganchi on the Chinese Eastern Railway.

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[12] MacMurray, *op. cit.,* II, 1390–1394.

The Japanese claimed that the Chinese were violating their treaty obligations in two respects: first, China was building certain lines contrary to treaty; second, China was refusing to construct other lines demanded by treaty. The Japanese Government had protested against the construction, exclusively by the Chinese, of the two roads from Tahushan to Payintala and from Hailungcheng to Kirin, on the ground that they violated Japanese rights stipulated in an alleged secret protocol to the Sino-Japanese treaty of December 22, 1905 which reads:[15]

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[13] *Japan Weekly Chronicle,* January 24, 1929, 93.

[14] *Manchuria Daily News,* Monthly Supplement, June 1, 1929.

> 3. The Chinese Government engage, for the purpose of protecting the interest of the South Manchuria Railway, not to construct, prior to the recovery by them of the said railway, any main line in the neighborhood of and parallel to that railway, or any branch line which might be prejudicial to the interest of the above-mentioned railway.

The Japanese maintained that both these new Chinese lines ran parallel to and competed with the South Manchuria Railway, and pointed out that the Tahushan–Payintala road made it possible for freight between northwest Manchuria and Tientsin to be shipped on Chinese lines without touching the South Manchuria system. The Chinese, in answer, stated that these lines were not "in the neighborhood" of the South Manchuria, since the Hailungcheng–Kirin road was distant from it some 80 miles in a bee-line, and the Tahushan–Payintala averaged to be from about 60 to 150 miles distant.[16]

Japan also contended that China was under treaty obligation to permit Japanese financial participation in any railway built from Hailungcheng to Kirin, that this promise was contained in a "preliminary agreement for a loan for railways in Manchuria and Mongolia" signed

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[15] MacMurray, *op. cit.,* I, 554; Kawakami, K. K., "Manchuria: The Crux of Sino-Japanese Relations," *Foreign Affairs,* VI (1927–28), 383.

The Lytton Report states (pp. 44–45) that the alleged engagement regarding so-called "parallel railways" is not contained in any treaty but that there exists a Chinese statement of intention, in the words quoted above, in the minutes of the Peking Conference, December 4, 1905. The Lytton Commission did not attempt to judge between the Japanese and the Chinese interpretations of this statement but appeared to favor the latter, which appeared to admit in practice "an obligation not to construct railways patently and unreasonably prejudicial to the interest of the South Manchuria Railway. . . ."

[16] Young, C. Walter, *Japan's Special Position in Manchuria,* 93–105.

September 28, 1918, Article I of which stipulates that "the [Chinese] Government shall permit the [Japanese] banks to raise all the funds required for building" a specified number of railways in Manchuria including the line from Hailungcheng to Kirin.[17]

While the Japanese Government had repeatedly protested against the construction of these lines without Japanese consent,[18] some of the foremost Japanese stated that they were not so much opposed to the new Chinese roads as they were to the violation by China of Japanese treaty rights. Mr. Matsuoka, now president of the South Manchuria Railway Company, had said:[19]

> The Japanese Government and the South Manchuria Railway, in dealing with the question of parallel railways, are concerned mainly with the principle that existing treaties and agreements so long as they are binding must be observed. Once this point is recognized, the question of constructing projected Chinese railways will be comparatively easy to settle.

The Japanese wished to enjoy the right of financial participation in the roads which they held had been promised them by international agreement with China, and they were especially anxious to share in the extension of the Changchun–Tunhua line from Tunhua to the Korean border where it would connect with a Japanese railroad running from Kainei to the seaport of Seishin. Such a line, giving a short, direct entrance to central Manchuria and opening a fertile region with abundant mineral resources, was viewed as of great economic value as well as of strategic significance to Japan. The Chinese Government, it was pointed out, undertook in the agreement of September 4, 1909 to commence this line, "upon consultation with the Government of Japan," and with the same measure of Japanese participation as in the Changchun–Kirin Railway.[20] Later, in 1918, the Chinese Government and the Japanese banks signed a preliminary agreement for a loan for the construction of this line and in accordance with the agreement the banks advanced to the Chinese Government $10,000,000.[21] Still more recently, the Japanese stated, the Manchurian authorities had given verbal promises to carry out these agreements, but they had failed to make the necessary final arrangements.[22]

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[17] MacMurray, *op. cit.,* II, 1448.

[18] Kawakami, *op. cit.,* 385.

[19] *Ibid.,* 386.

The railroad issue was similar in many respects to other disputes between China and Japan in Manchuria. The Japanese relied upon treaties and other agreements made with China. The Chinese relied upon their moral right, as they viewed it, to check the Japanese and regain the concessions granted to them. It was all a part of the struggle between these two States over south Manchuria.[23]

[20] MacMurray, *op. cit.,* I, 796.

[21] *Ibid.,* II, 1430–1432.

[22] See farewell address of President Yamamoto of the South Manchuria Railway Company, July 22, 1929, *Manchuria Daily News,* Monthly Supplement, August 1, 1929, 2.

[23] Foreign participation in railroad expansion in Manchuria was conditioned by the Consortium, signed in 1920 by American, British, French and Japanese banking groups, upon the support of their respective Governments. These groups promised to share with each other "on the principle of complete equality in every respect" all "loan agreements which involve the issue for subscription by the public of loans to the Chinese Government or to Chinese Government departments or to provinces of China or to companies or corporations owned or controlled by or on behalf of the Chinese Government," etc. The Consortium did not apply to loans where there was no public subscription, nor did it apply to several of the lines in central Manchuria including the two roads extending from Kirin. (Carnegie Endowment for International Peace, *The Consortium: The Official Text of the Four-Power Agreement for a Loan to China and Relevant Documents,* 62, 67–69; Malloy, *Treaties, Conventions,* etc., III, 3823.)

The Proposed Morgan Loan

In this Sino-Japanese railroad issue the United States was nearly involved due to a proposed loan to the South Manchuria Railway Company from J. P. Morgan and Company which the Chinese vigorously opposed and which would need the tacit approval of the Department of State. When it was announced in November 1927 that Thomas W. Lamont, a member of the Morgan firm who was then in Japan, had practically completed negotiations for such a loan, vigorous opposition was at once raised by the Chinese. Mr. Yamamoto, the president of the South Manchuria Railway Company, stated that the loan, which would amount to $30,000,000 (gold), would be used in part for the refunding of a higher-priced loan which would come due within a few months, and the remainder for additional rolling stock, heavier rails and the development of the company's collieries and fertilizer system.[24] The Chinese feared that the loan would be used for the extension of the Japanese railroad control in Manchuria, and believed that, above all else, its purpose was political, and that it would give American support to Japan's position in Manchuria. The Nanking Government protested to Washington and strong objections were raised by the Peking Government and by various Chinese organizations.[25] The American bankers, however, did not complete their negotiations for the loan.

Maintenance of Peace and Order

Japan's railroad and other interests in Manchuria precipitated another issue with China, namely, Japan's alleged right to maintain peace and order throughout the region. Baron Tanaka's Government insisted that Japan possessed this right on account of its special interests in Manchuria. The Chinese denied this claim, and Japanese public opinion was divided regarding it.

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[24] *Week in China,* December 10, 1927, IX, 3–5.

[25] *United States Daily,* December 7, 1927, 2; *North China Herald,* December 10, 1927, 436.

Shortly after Baron Tanaka came into power he summoned the leading Japanese diplomatic and consular officials in China to a conference in Tokyo, at the close of which, July 7, 1927, he summarized its conclusions. One article of this summary reads: [26]

> If the disturbances spread to Manchuria and Mongolia and, as a result, peace and order are disrupted, thereby menacing our special position and rights and interests in those regions, we must be determined to defend them, no matter whence the menace comes, and take proper steps without loss of time in order to preserve the regions as lands for peaceful habitation and development equally to Japanese and foreigners.

A dramatic insistence upon this right occurred when it seemed possible that the Nationalist armies, after capturing Peking, might carry the civil war into the heart of Manchuria. In view of this situation, the Japanese Government, May 18, 1928, sent to the leading generals representing both Peking and Nanking a memorandum which said in part: [27]

> The Japanese Government attach the utmost importance to the maintenance of peace and order in Manchuria, and are prepared to do all they can in order to prevent the occurrence of any such state of affairs as may disturb the peace and order, or constitute a probable cause of such disturbance.

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[26] *Japan Weekly Chronicle,* July 14, 1927, 37.

[27] *Week in China,* May 19, 1928, XI, 10; *Chinese Social and Political Science Review,* Public Documents Supplement, XII (July 1928), 53.

> In these circumstances, should the disturbances develop further in the direction of Peking and Tientsin and the situation become so menacing as to threaten the peace and order of Manchuria, the Japanese Government, on their part, may possibly be constrained to take appropriate and effective steps for the maintenance of peace and order in Manchuria.

At the same time Baron Tanaka sent a statement to the ambassadors of the leading States in Tokyo and to the Chinese generals:[28]

> Should Manchuria and Mongolia come to be involved in the disturbance, the Imperial Government will prevent as far as possible defeated troops or those in pursuit of them, regardless of whether they are Southern or Northern troops, from entering the territory as such action is necessary for the protection of the special position of the Imperial Government in Manchuria and Mongolia.

Both the Peking and Nanking Governments in reply protested against Japan's right to maintain peace and order in Manchuria. The Nanking note stated that such measures as Japan proposed[29]

> will not only constitute an interference with China's domestic affairs but also a flagrant violation of the principle of mutual respect for territorial sovereignty—a principle well established in international law. Such measures the Nationalist Government can never recognize.

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[28] *Week in China,* May 19, 1928, XI, 11.

[29] *North China Herald,* June 2, 1928, 359; for the Peking note, see *Chinese Social and Political Science Review,* Public Documents Supplement, XII (July 1928), 52. Marshal Chang Tso-lin was killed near Mukden by a bomb which destroyed his railroad car just as it was passing under a bridge of the South Manchuria Railway. The tragedy embittered Sino-Japanese relations since the Chinese charged the Japanese with responsibility for the crime. It was also a leading factor in causing the overthrow of the Tanaka Government.

The withdrawal of Marshal Chang Tso-lin's forces into Manchuria without risking a battle for the possession of Peking obviated the necessity of any exceptional measures by Japan to maintain the peace of the region. After Marshal Chang Tso-lin's death, which actually occurred June 4, 1928, but according to official declaration, June 20, and after the succession of his son Chang Hsueh-liang to the position of headship in Manchuria, the question arose whether Manchuria should recognize the authority of the Nationalist Government at Nanking. The Japanese consul general at Mukden, Mr. Hayashi, advised Chang Hsueh-liang, July 19, not to join with the Nationalists under existing circumstances but to adopt a policy of watchful waiting. This advice was seconded by Baron Hayashi, a distinguished Japanese diplomat. Later, Baron Tanaka stated that this advice, although in accord with the views of the Japanese Government, was an expression of personal opinion and not an official communication.[30] After some weeks, however, a compromise arrangement was worked out between the Chinese authorities in Manchuria and Nanking, by which the former would recognize the authority of the National Government but would be left in practical control of their own local affairs. To such an agreement Japan presented no objection and the National flag was formally raised in Mukden, December 26, 1928.[31]

The Manchurian policy of the Tanaka Government was severely criticized, however, not only by Chinese and many foreigners but also by some of the leading Japanese. Baron Shidehara said:[32]

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[30] *Japan Weekly Chronicle,* August 9, 1928, 185; *see also* August 16, 1928, 216–218.

[31] *Week in China,* December 29, 1928, XII, 27–30; for a semi-official statement of the political status of Manchuria and its relations to the National Government at Nanking, see *ibid.,* March 2, 1929, XII, 155–157.

> It is, of course, very desirable that the conditions in Manchuria and Mongolia should be so improved that all nationals can live in absolute security and peace, but it is certainly not for Japan to assume the task and responsibility for making them so.

Foreign statesmen commented upon the developments in Manchuria. Sir Austen Chamberlain in the House of Commons, July 13, 1928, in reply to a question, said that Great Britain considered Manchuria a part of China and recognized no special Japanese interests in it except those specifically conferred by treaty and outlined by Baron Shidehara at the Washington Conference.[33] The American secretary of state, Mr. Kellogg, said to the press on May 31:[34]

> As far as the United States is concerned Manchuria is essentially Chinese soil.

A solution of the conflicting claims of China and Japan in Manchuria was viewed as highly desirable in the interest not only of the two nations concerned but also of the political stability of the Far East. Some few suggestions of compromise were made. Dr. C. C. Wu stated:[35]

> If relations between China and Japan are not adjusted to their mutual satisfaction, the peace of the world is not secure. If Japan's problem is economic, the solution should be economic, without importing into it political considera-

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[32] *Week in China,* November 10, 1928, XII, 23.

[33] London *Times,* July 14, 1928, 13.

[34] *United States Daily,* May 22, 1928, 2.

[35] *Foreign Affairs,* VI (1928), 670.

tions. May not future statesmen find an answer to these vexed questions along economic lines?

Mr. Matsuoka, when vice-president of the South Manchuria Railway, wrote:[36]

> . . . I may say that were China to deny other peoples the opportunity of sharing the benefit of her rich resources for no other reason than that they lie within her territory, she would indeed be laying herself open to criticism. . . . Japan cannot profit herself in Manchuria without profiting China in a like manner. . . . Japan, in all matters of Manchuria, should find common ground of agreement with China as well as other nations, from her economic point of view, joining her work with that of others to the end of adding to the material wealth and happiness of the world.

Unhappily, the absence of mutual confidence prevented the application of the co-operative principle.

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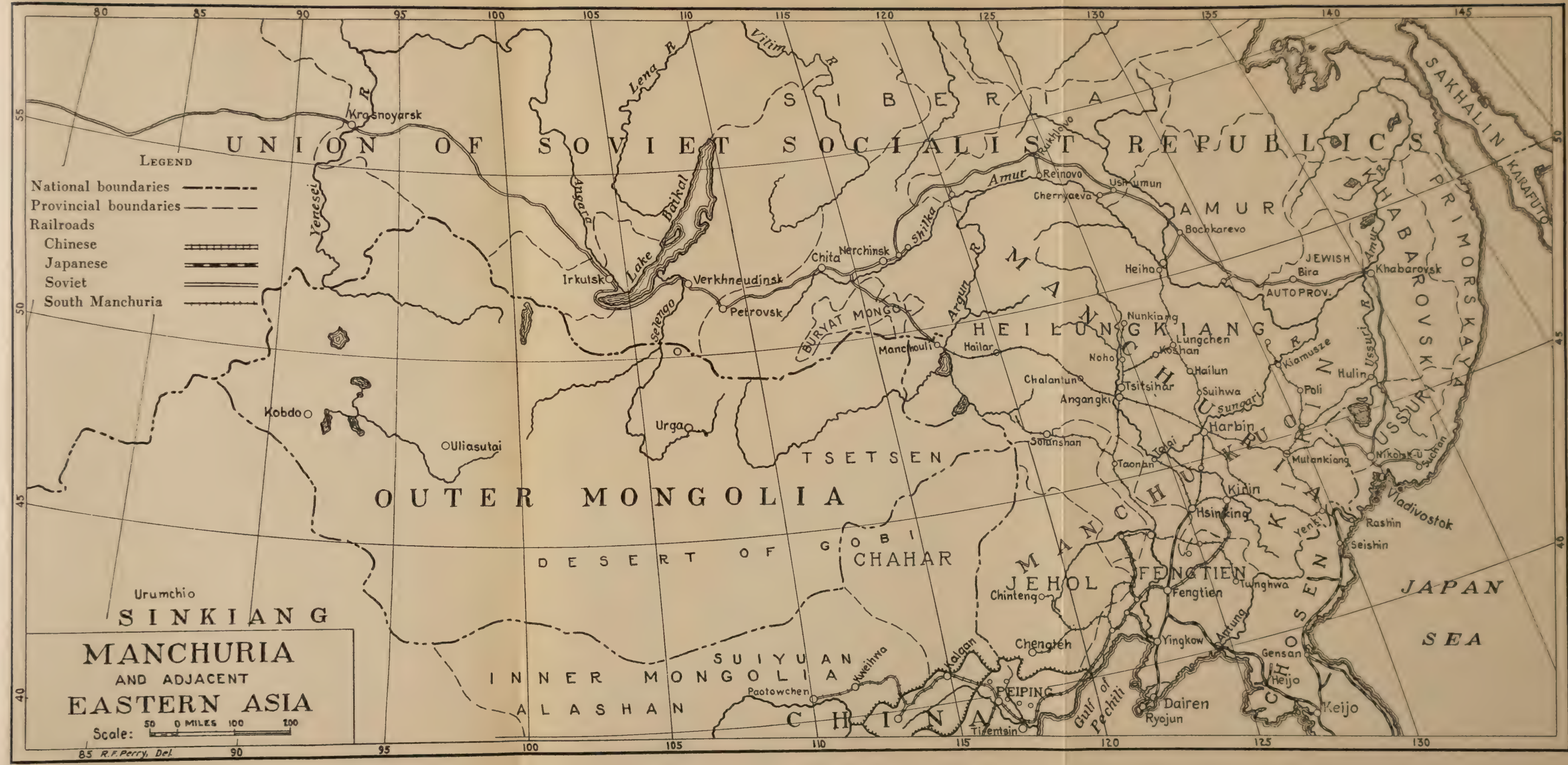
[36] *Pacific Affairs,* No. 12, 1929, 792–793.



MANCHURIA
AND ADJACENT
EASTERN ASIA

LEGEND
National boundaries
Provincial boundaries
Railroads
Chinese
Japanese
Soviet
South Manchuria
Scale: 50 0 MILES 100 200
R. F. Perry, Del.
UNION OF SOVIET SOCIALIST REPUBLICS
SIBERIA
Krasnoyarsk
Yenesei
R
Angara
Lena R.
Vitim R.
Lake Baikal
Irkutsk
Verkhneudinsk
Selenga
Petrovsk
Chita
Nerchinsk
Shilka
Amur
Argun R.
Rukhlovo
Reinovo
Cherryaeva
Ushumun
AMUR
Bochkarevo
Heiho
JEWISH AUTO PROV.
Bira
Khabarovsk
KHABAROVSK
PRIMORSKAYA
USSURI
Ussuri R.
Amur
SAKHALIN
KARAFUTO
BURYAT MONGOL
Manchouli
Hailar
MANCHUKUO
HEILUNGKIANG
Nunkiang
Lungchen
Koshan
Noho
Hailun
Tsitsihar
Chalantun
Suihwa
Angangki
Sungari
Harbin
Kiamusze
Poli
Hulin
KIRIN
Mutankiang
Nikolsk-U
Suchan
Vladivostok
Solunshan
Taonan
Talai
Kirin
Hsinking
Yenki
Rashin
Seishin
FENGTIEN
Fengtien
Tunghwa
Antung
Yingkow
Dairen
Ryojun
Gulf of Pechili
CHOSEN
Gensan
Heijo
Keijo
JAPAN SEA
JEHOL
Chinteng
Chengteh
CHAHAR
Kalgan
PEIPING
Tientsin
Kweihwa
Paotowchen
SUIYUAN
INNER MONGOLIA
ALASHAN
CHINA
DESERT OF GOBI
TSETSEN
OUTER MONGOLIA
Urga
Kobdo
Uliasutai
SINKIANG
Urumchio
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V. THE ESTABLISHMENT OF MANCHOUKUO

Criticism of the "Friendship Policy"

All of Japan's most serious altercations with China—those which led to hostilities or to threats of hostilities—have arisen not under military but under civilian premiers. In two cases, the presentation of the 21 Demands in 1915 and the intervention in Manchuria in 1931, the premiers were liberals. In 1931 the foreign minister, Baron Shidehara, as well as the premier, Baron Wakatsuki, was known to be strongly opposed to militarist methods in foreign relations. Moreover, the decade that followed the Great War had witnessed an apparent growth of parliamentarism in Japan. General Baron Tanaka had retired from the premiership in July 1929 under suspicion of at least passive participation in the plot to murder General Chang Tso-lin. The omens for an era of Sino-Japanese good feeling were favorable. What followed is one of the ironies of history.

Premier Hamaguchi issued a statement on July 9, 1929 in which he renounced all measures of aggression against China, advocated mutual understanding and economic co-operation, and admitted the necessity of revising Japan's China policy toward those ends.[1] This line of action was followed by Foreign Minister Shidehara. In the House of Peers on March 9, 1931 he declined to attach importance to rumors that the Chinese

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[1] *Current History,* September, 1929, 1173–4.

Government was preparing a formal demand for retrocession of the South Manchuria Railway. With reference to the issue of Chinese parallel lines he admitted that such lines affected the interests of the South Manchuria Railway but since they had been built he held that the best thing possible was to devise ways and means of assisting all of the railways to prosper.[2]

It was, however, during the administration of Wakatsuki and Shidehara that a change took place toward what was termed a more "positive" Japanese policy in Manchuria. This change was marked by the appointment of Count Yasuda Uchida as president of the South Manchuria Railway in June 1931. Contemporary with this action was the replacement of Admiral Viscount Makoto Saito, who had been more successful than any other Japanese in conciliating Korean opinion, by General Kazushige Ugaki as governor-general of Chosen (Korea). The latter, though generally regarded as a liberal, stated that Korea needed more troops, not only for its own peace and order but in the interests of imperial defense. Count Uchida, an experienced diplomat, was expected to assist the unification of Japanese administration in the South Manchuria Railway area by reducing friction between the railway authorities and the heads of the army, the consular service and the government of Kwantung leased territory. These changes were apparently insisted upon by General Jiro Minami, minister of war.[3]

The Minseito cabinet had to meet not only the censure of the army leaders but the trenchant criticism of its leading opponent in the Diet, the Seiyukai. A strong manifesto by that party appeared in June 1931. In it the Minseito was denounced for shelving Japan's policy, established under Emperor Meiji, of command over the general situation in the Far East. Japan's loss of prestige in Manchuria was deplored.[4] A similar view was expressed by the two largest parties in the House of Peers.[5]

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[2] *Japan Weekly Chronicle,* March 19, 1931, 295.

[3] *Ibid.,* June 25, 1931, 694, 696–7.

KOREAN DIFFICULTIES IN MANCHURIA

The conciliatory policy of Baron Shidehara was further impeded by outbreaks against Korean residents of Manchuria. Korean emigration to Manchuria had been considerable. In 1931 there were 600,000 Koreans there. Japanese residents of the region numbered about 230,000.[6] Whereas most of the Japanese immigrants were officials, railway workers, merchants and professional men, the Koreans were farmers seeking a living in intimate contact with the Chinese rural population. For many years friction had been rife between the two peoples, provoking numerous incidents and involving their respective governments in irritating controversies over issues of treaty rights.

The Chinese had no objection to the Koreans as Koreans. What they resented was the incapacity of Koreans under Japanese law to become naturalized Chinese subjects. They feared the consequences of extensive acquisitions of land by this neighbor people and they deprecated the practice of Japan in employing "consular police" to protect Koreans in Chinese territory. This attitude led to both official and private measures to limit landholding and to interfere with cultivation. These measures were called illegal by the

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[4] *Japan Weekly Chronicle,* July 20, 1931, 12.

[5] *Ibid.,* July 20, 1931, 13.

[6] *Manchuria Year Book,* 1932–33, 14.

Japanese Government since they ran counter to the agreement of 1915 (part of the "21 Demands") by which Japanese subjects were granted the right to reside and lease lands in south Manchuria.

The broad issue above outlined was complicated by the situation in Chientao, a region in Manchuria just north of the Korean border. By an agreement of 1909 the Koreans were enabled to purchase or lease agricultural land in Chientao. Migration thither from below the line was heavy. By 1931 there were 400,000 Koreans in the region. Although the Chientao agreement specified that Chinese jurisdiction should prevail in the area the fact was that

> In Chientao . . . the Japanese Government has been insistent on exercising jurisdiction and surveillance over the Koreans, over 400 Japanese consular police having been maintained there for years. The Japanese Consular service, in co-operation with Japanese functionaries assigned by the Government-General of Chosen, exercise broad powers of an administrative character in the region. . . .

The use of Chientao as a place of asylum by Korean revolutionists, some of whom were communists, made it an area of special concern to the Japanese authorities. In 1925 the police commissioners of Chosen and of Fengtien Province (Liaoning) negotiated the "Mitsuya agreement" providing for co-operation against such societies and individuals.[7]

The so-called "Wanpaoshan affair," which occurred in central Manchuria on July 1, 1931, was the culminating incident in the series of petty clashes between Chinese and Korean farmers in that year. It was typical in that both sides could point to legal rights. The Koreans were attempting to dam the Itung River and to dig an irrigation ditch across Chinese-held land from the river to lands which they had subleased from a Chinese lessee for the cultivation of rice. Although they were entitled by the contract to dig the ditch the leasing arrangement required the approval of the local magistrate, which had not been obtained by the Chinese lessee. Efforts of several hundred Chinese farmers to frustrate the enterprise brought Japanese police to the spot. Some firing occurred but there were no casualties. The dam and the ditch were built under protection of the Japanese force.

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[7] Lytton Report, 55–61.

Newspaper accounts of the case, which mistakenly reported deaths and injuries among the Koreans, inflamed popular feeling in Chosen and provoked serious anti-Chinese riots. Chinese official reports stated that 127 Chinese were killed and nearly 400 wounded in the rioting; also that Chinese property worth 2,500,000 yen was destroyed. Many Chinese believed that the newspaper accounts had been colored to arouse Korean antagonism and that inadequate efforts had been made by the Japanese police to restrain the rioters. The Japanese Government expressed regret and offered to indemnify the families of dead and injured Chinese but denied laxity in law enforcement measures.[8]

THE NAKAMURA CASE

The murder of Captain Shintaro Nakamura and several companions by Chinese soldiers near Taonan in June 1931 was the signal for the Japanese military authorities to assume a role in the difficult process of reconciling divergent interests in Manchuria. The murders expressed the resentment of the Chinese at Captain Nakamura's attempt to carry out a military mission while carrying a passport describing him as an agricultural expert. There was evasion and delay in establishing responsibility but Baron Shidehara appeared to have the case well in hand in September. The culprits had been apprehended, they were to be tried, and the authorities of Fengtien (Liaoning) province were prepared to pay an indemnity.[9] Before the case could be closed, however, hostilities had begun.

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[8] Lytton Report, 61–63.

Japanese Intervention in Manchuria

All the world knows that the military operations which led to the creation in Manchuria of a state entitled Manchoukuo (or Manchoutikuo) were set in motion by an explosion on the South Manchuria Railway at a point a little north of Mukden during the night of September 18, 1931. It knows also that the answer to the question of responsibility for the explosion—which is not yet known—is of negligible importance beside the mass of evidence now available that the Japanese supreme command had determined to separate Manchuria from China. The precision, speed and thoroughness with which the area was over-run by Japanese forces in the face of foreign protests, and the erection of the puppet kingdom only a few months after hostilities began, are facts which no amount of argument can reduce to the absurdity of an act of self-defense.[10]

The city of Mukden, center of government for the three provinces of Manchuria, was captured by Japanese forces on the night of the explosion. During the same night several other cities were seized—Changchun, Antung and Yingkow being the most important. Japanese garrisons at these cities were aided in their easy victories by general orders from Chang Hsuehliang, then ill at Peiping, that Chinese forces refrain from military action. On September 21 the city of Kirin was taken "without the firing of a shot." [11] Chinchow, to which the government had been transferred, was bombed on October 8.

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[9] Lytton Report, 63–66.

[10] For an account of the so-called "incident" of September 18, 1931 see the Lytton Report, Chapter IV; also an article by Ben Dorfman in *Harpers Magazine,* September, 1934.

Thereafter, military action was suspended until November 4, when Chinese forces under General Ma Chan-shan resisted the repair of a railway bridge over the Nonni River in Heilungkiang province by Japanese engineers. This bridge was located about 300 miles northwest of Mukden. Two weeks later Japanese troops occupied the city of Tsitsihar. The next movement was to the southwest of Mukden, the city of Chinchow being taken on January 3, 1932. Japanese forces then continued southward to the Great Wall. Considerable reenforcements were brought from Korea. Harbin, principal railway center of north Manchuria, was occupied on February 5. With its capture, all the important cities of Manchuria were in Japanese hands. However, there were large forces of Chinese regulars and volunteers still under arms.[12] These pursued guerrilla tactics in all three provinces and have not been completely subdued even today.

In January 1933 the Japanese initiated a campaign to add the Chinese province of Jehol to Manchoukuo by the bombing and occupation of the city of Shanhaikwan in Hopei province, where the Great Wall meets the sea. Although the mountainous country is well-suited to defense the Japanese forces pushed through the passes to the capital in a two weeks drive from Chaoyang, occupying Jehol City on March 4. Governor Tang Yu-lin fled, leaving the province to be overrun by the enemy.[13] With the inclusion of Jehol the state of Manchoukuo was stated to cover 1,303,143.25 square kilometres (503,143.61 square miles) and to have 34,201,000 people. These figures include the South Manchuria Railway area but not that of the Kwantung leased territory (1,337 square miles). They do not include the population of the railway areas and leased territory, which numbered 1,676,640 persons.[14]

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[11] Lytton Report, 72.

[12] These facts are taken from the Lytton Report, 66–83.

Japanese Intervention at Shanghai

Although the Shanghai "incident" was not a part of the military operations for the taking of Manchuria, it was closely related to them and to the circumstances that occasioned the occupation. The Wanpaoshan case and the anti-Chinese riots in Korea had stimulated a boycott of Japanese goods by Chinese merchants at Shanghai. The merchants had formed an Anti-Japanese Boycott Association and were prosecuting their opposition vigorously. Incidents of violence began to occur and popular feeling became extremely inflamed.[15]

At this time, a Chinese army from Kwangtung province under the command of General T'sai Ting-kai was in garrison at Shanghai. Brought to the city in consequence of a compromise between political factions at Nanking and Canton, this army represented an attitude toward Japanese policy more antagonistic than that of

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[13] *Current History,* April, 1933, 124.

[14] *General Survey of Conditions in Manchoukuo,* Department of Foreign Affairs, Manchoukuo Government, November, 1936, 4–5.

[15] Willoughby, W. W., *The Sino-Japanese Controversy and the League of Nations,* 312.

General Chiang K'ai-shek and his immediate supporters at the capital. It moved into Chapei, a portion of the Chinese municipality, and took up positions close to the International Settlement. No hostile acts were committed but there was apprehension, particularly among Japanese residents, that an attack upon them was planned.[16] Similarly, the Chinese feared a Japanese effort to occupy their municipality of Shanghai.

Japanese domestic politics also played a part in the resulting warfare. The Japanese navy which had been opposed to the London naval treaty (1930), and which envied the successes of the army in Manchuria, wanted an opportunity to take part in the assertion of Japanese interests. Relying upon precedents, the naval command at Shanghai expected an easy task in forcing retirement of General T'sai's army, which had ignored demands that it retire from Chapei. This expectation proved erroneous and the navy had to call for the army's aid before the Chinese forces were compelled to give way.[17]

Although the mayor of Greater Shanghai accepted demands made by the Japanese consul general there, designed to quiet anti-Japanese agitators, the naval commander moved a small force of marines into Chapei on the night of January 28–29, 1932. This action initiated a hard-fought struggle which continued until March 3, the Chinese army having finally been outflanked and forced to retire. During the fighting the Japanese bombed Chapei heavily, with resulting calamitous losses of civilian lives and destruction of property.[18] Generalissimo Chiang K'ai-shek sent additional troops to Shanghai but these, apparently, served only to prevent the retreat of General T'sai's army.[19] A brief bombardment of Nanking from the river was an incident of the hostilities.[20]

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[16] Vaughan, Miles, *Covering the Far East,* 323.

[17] *Ibid.,* 322.

[18] The Lytton Report refers to Chinese estimates of 24,000 soldiers and civilians killed, wounded or missing, and property losses amounting to $1,500,000,000 Chinese silver (p. 86).

Since the Japanese made use of the International Settlement as a military base, the issue of their right to do so was raised by the Council of the Settlement in an official statement of February 15, 1932.[21] This statement claimed that by usage the Settlement had come to be regarded as a neutralized area in the event of civil strife in China but admitted that "whether this condition of neutrality extends beyond this may be a moot question." There were precedents for the use of foreign forces outside the Settlement for defensive purposes, upon which the Japanese could rely to the extent that their action was in fact defensive.[22]

MANCHOUKUO

Inevitably, Chinese political organization broke down during the early days of the Japanese intervention; many hundreds of apprehensive officials left Manchuria or went into hiding. In their places the Japanese appointed temporary officials of their own nationality. Within a few weeks, however, they began to install Chinese officials whom they prevailed upon to accept positions. Yuan Chin-kai was made governor of Fengtien (Liaoning) province but was replaced in December 1931 by Tsang Shih-yi, the last governor under Chang Hsueh-liang, after a period of imprisonment.

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[19] Vaughan, *Covering the Far East,* 333; Mr. Stimson, however, states that "the two armies now fought shoulder to shoulder with equal ardor." (Stimson, Henry L., *The Far Eastern Crisis,* 130.)

[20] Lytton Report, 87.

[21] Willoughby, *op. cit.,* 315.

[22] Shinobu, Jumpei, *International Law in the Shanghai Conflict.*

General Hsi Hsia became governor of Kirin province and General Chang Ching-hui of Heilungkiang.[23] Since the provincial capitals were in Japanese military control these Chinese governors were subject to such orders as the Japanese commanders saw fit to impose.

Preliminary to the restoration of the former "boy emperor" of China to the Manchurian throne of his forefathers, a "self-government guiding board" and later a "supreme administrative council," both of Chinese membership, were created at Mukden. The latter issued a declaration of independence on February 18, 1932. Stimulated by the "guiding board," expressions of desire for independence and for Pu Yi, the ex-emperor, as head of a new state, were obtained from public and private bodies. Pu Yi was then in Dairen, having left the Japanese concession in Tientsin in anticipation of future events. He was inducted into the office of chief executive of the newly declared state of Manchoukuo on March 9, 1932. On the same day an organic law and a bill of rights were promulgated. Recognition by foreign states was requested on March 12.[24]

Manchoukuo became a monarchy on March 1, 1934. A declaration issued on January 20 of that year by Premier Cheng Hsiao-hsu stated that [25]

> . . . the people, observing with their own eyes testimonials of the Heavenly protection and in praise of the benevolent rule of *wang tao*, are now earnestly and repectfully petitioning that the Chief Executive may ascend the throne in compliance with the will of Heaven.
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> . . . The Government . . . will by no means support

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[23] *Manchuria Year Book,* 1932–33, 49–51.

[24] Lytton Report, 88–95.

[25] Manchoukuo Government, Publications of the Department of Foreign Affairs, *Information Bulletins* Nos. 50–120, 27–28 (Bulletin No. 112).

> the idea which confuses the proposed enthronement with the restoration of the Ch'ing [the former Manchu] dynasty.

Pu Yi was enthroned as Emperor Kangte at Hsinking, the former Changchun and now the capital of the new state. Foreign states were informed of this event and of the earnest desire of the government that relations between it and other nations should develop favorably.[26] In a statement to foreign countries, Hsieh Chieh-shih, minister for foreign affairs, said, *inter alia:* [27]

> It may be emphasized . . . that His Majesty the Emperor has created the Manchou Empire and reigns over it as the first sovereign, by the grace and blessings of Heaven. This fact, however, should not be regarded as a restoration of the Ch'ing dynasty. It, moreover, does not in the least imply any suspicion or malice against the people of the Republic of China. The sole aim of this Empire lies in safeguarding its domain, protecting its inhabitants, and in completing the establishment of a peaceful paradise by perfecting the administration in accordance with the newly promulgated organic law as well as the future constitution, thereby contributing to the maintenance of lasting peace in the Orient.

A constitution modelled upon that of Japan was promulgated on the day of the enthronement.[28] Although it was well understood that Kangte and his Chinese—thereafter to be referred to as "Manchurian"—ministers of state were without power to control policy or administration, the fundamental law asserted that [29]

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[26] Manchoukuo Government, Publications of the Department of Foreign Affairs, *Information Bulletins* Nos. 121–123 (old), 1–65, 4 (Bulletin No. 3).

[27] Manchoukuo Government, *Information Bulletin* No. 4, 5–6.

[28] *Ibid.,* No. 7, 40–46.

[29] Article 3.

The Emperor is the head of the Empire, combining in himself the rights of sovereignty, and shall exercise them in accordance with the provisions of the present law.

Provision was made for a Privy Council, a Legislative Council, a State Council or cabinet of eight departments and a prime minister, and a Supervisory Council or board of audit. The existing laws for the organization of the Privy Council, the State Council, and the Supervisory Council were allowed to stand.[30] No law has yet been promulgated to organize the Legislative Council. On July 1, 1937 changes in the system calculated to unify it greatly were brought into effect. The Supervisory Council, Department of Foreign Affairs, and Department of Mongolian Administration were abolished. The conduct of foreign relations was entrusted to the prime minister under whom a new "Office of Foreign Affairs," headed by a Japanese, was established. A "planning council" was created in the premier's office to advise on matters of general policy. The functions of the executive departments were redistributed among six departments and a number of committees, offices and bureaus.[31]

On October 11, 1934 a law for the organization of provincial government was issued, effective December 1 of that year.[32] This law ordained that there should be 10 provinces in addition to Hsingan, which had been organized somewhat differently in 1932 in consideration of the Mongol inhabitants of western Manchuria and eastern inner Mongolia.[33]

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[30] Manchoukuo Government, Publications of the Department of Foreign Affairs, *Series No. 2,* November 1932, 9–33.

[31] Manchoukuo Government, Bureau of Information, Department of Foreign Affairs, Hsinking, May 26, 1937, *Bulletin* No. 183; *Contemporary Manchuria,* Vol. I, September, 1937, 119–121.

[32] Manchoukuo Government, Publications of the Department of Foreign Affairs, January 1935, *Information Bulletins* Nos. 50–120, 86–93 (Bulletin No. 55).

Superficially the administration of Manchoukuo is Chinese. The control of affairs, however, rests in Japanese hands. This is assured by the military occupation of the country and is managed through the appointment of Japanese officials to seemingly subordinate but actually controlling positions. While changes have been made in the administrative scheme since the Lytton Report was written, the method of control described therein is still maintained. Boards of General Affairs in the central government and provincial governments, and secretariats in the various executive departments, all dominated by Japanese, determine policy and supervise administration. Several hundred Japanese officials are on the payroll of Manchoukuo. Their responsibility is primarily to the Japanese ambassador, who is also commander-in-chief of the Kwantung army and governor of Kwantung leased territory, and who reports to his superiors in Tokyo.

MANCHOUKUO AND JAPAN

Four states, Japan, El Salvador,[34] Italy,[35] and Germany [36] have accorded recognition to the new state of Manchoukuo. Japan recognized it formally by concluding a short protocol of alliance with it on September 15, 1932. Manchoukuo confirmed "all rights and interests possessed by Japan and her subjects within the territory of Manchoukuo by virtue of the Sino-Japanese treaties, agreements or other arrangements or Sino-Japanese contracts, private as well as public." The article of alliance reads:[37]

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[33] Manchoukuo Government, Publications of the Department of Foreign Affairs, *Series No. 2,* November, 1932, 37–39.

[34] *Ibid., Information Bulletins* Nos. 121–123 (old), 81–65, 18–19 (Bulletin No. 22).

[35] Italian recognition was accorded on November 29, 1937, *New York Times,* November 30, 1937.

[36] Germany recognized the state on February 20, 1938; *New York Times,* February 21, 1938.

> Manchoukuo and Japan, recognizing that any threat to the territory or to the peace and order of either of the High Contracting Parties constitutes at the same time a threat to the safety and existence of the other, agree to co-operate in the maintenance of their national security; it being understood that such Japanese forces as may be necessary for this purpose shall be stationed in Manchoukuo.

Certain interesting sentences occur in a statement issued by the foreign minister of Manchoukuo at the signing of the protocol:[38]

> The State of Manchuria came into being through the will of the inhabitants of this region. . . . Its standing as a State, I am sure can be favorably compared with [that of] any other member of the family of nations. Moreover, its independence, regardless of whether or not it is recognized by the powers, is already a reality indisputable. . . .
>
> The European and American powers and the League of Nations have upheld the principle of justice and humanity and have advocated the doctrine of the "self-determination of peoples." To these powers we desire to point out that it is utterly inconsistent to attempt to subject these inhabitants of Manchoukuo, against their will, once more to the oppressive yokes of their former militarists from whom they have just liberated themselves. . . . Our sincere hope is that the powers will acknowledge the fact that the failure to recognize the independence of Manchoukuo and the support given by Japan to its realization will unnecessarily

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[37] Manchoukuo Government, Publications of the Department of Foreign Affairs, *Series No. 1,* October 1932, 16–17.

[38] *Ibid.,* 18–20.

lead to the disruption of peace in the Far East, and that they will speedily take steps for extending their formal recognition.

Japan's first ambassador to Manchoukuo, General Nobuyoshi Muto, presented his credentials on December 23, 1932.[39] In May of the following year Lieutenant-General Ting Shih-yuan went to Tokyo as Manchoukuo's first minister to Japan.[40] The Manchoukuo legation was raised to an embassy on June 19, 1935.[41] An agreement to establish a joint economic commission was made by Japan and Manchoukuo on July 15, 1935.[42] This commission was created on August 16 of that year [43] and consists of eight members, four appointed by each government. However, one of the appointees of Manchoukuo was the Japanese director of the General Affairs Board. Among the Japanese appointees appeared the chief of staff of the Kwantung army. It was provided in the agreement that the commission should sit at Hsinking and that:

> Article 2. The Commission may be consulted by the Governments of Manchoukuo and Japan as to important matters regarding the inter-relation of the economics of the two countries, as well as important matters regarding the supervision of the management of special companies set up as Manchoukuo-Japanese joint enterprises. . . .
>
> Article 3. The Governments . . . shall take no measures regarding such matters . . . unless they have previously consulted the Commission regarding them and have obtained its views thereon.

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[39] Manchoukuo Government, Publications of the Department of Foreign Affairs, *Information Bulletins* Nos. 1–50, 74 (Bulletin No. 25).

[40] *Ibid.,* Nos. 51–120, 157 (Bulletin No. 59).

[41] *Ibid.,* No. 105, 155.

[42] *Ibid.,* No. 108, 91–93.

[43] *Ibid.,* No. 115, 164.

A treaty for the partial abolition of extraterritoriality in Manchoukuo as of July 1, 1936 was signed by Manchoukuo and Japan on June 10 of that year. It was accompanied by a supplementary agreement on residence and taxation and by agreed terms of understanding with respect to the treaty.[44] By these instruments such laws and ordinances of Manchoukuo concerning taxation, industries, etc., as should be agreed upon between the Japanese ambassador and the foreign minister of Manchoukuo became applicable to Japanese residents. The laws and ordinances thus approved were to be executed by Japanese consular courts. They were to be applied within the South Manchuria Railway zone but not in the Kwantung leased territory.

This development was carried to its logical conclusion by a treaty signed November 5, 1937, effective December 1 of that year. By it extraterritoriality was abolished and Japanese residents became subject to Manchurian jurisdiction. Simultaneously it was announced that the extraterritorial rights of other foreign residents also would be terminated. Actually the latter had been subject to certain laws of Manchoukuo along with the Japanese since July 1, 1936.[45] By the treaty of November 5, Japan surrendered administrative authority within the South Manchuria Railway zone and recognized the sovereignty of Manchoukuo therein.[46] These apparently important concessions to the dignity and effectiveness of the new state were essentially fictitious since the courts and police were under Japanese control.

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[44] *American Journal of International Law,* XXX (1936), Official Documents, 188–193.

[45] The American consul at Mukden protested against the application of a new banking law to the branches of the National City Bank, *Far Eastern Survey,* January 5, 1938, 8.

[46] *New York Times,* November 6, 1937; *Japan Weekly Chronicle,* November 11, 1937, 636.

VI. THE FOREIGN RELATIONS OF MANCHOUKUO

MANCHOUKUO AS A SUCCESSION STATE

Soon after the creation of Manchoukuo various Chinese governmental offices were taken over by the new state. Most important from the standpoint of revenue were the customs and salt monopoly services. The government affirmed its intention of remitting to China such monthly quotas as might equitably be considered the due proportion of the Manchurian provinces toward the payment of interest and principal on Chinese loans secured on the customs and the salt revenues. Such sums were sent to the Inspectors General of the Chinese Maritime Customs and of the Salt Gabelle at Shanghai.[1] On September 15, 1932 it was announced that "the Government of Manchoukuo has . . . come to the decision to treat the Republic of China as an entirely alien nation in matters relative to customs tariff, commerce and navigation as in all other matters," and regulations implementing that decision were issued.[2]

An order taking over the postal administration as of April 1, 1932 was published on March 20 of that year. This order actually became effective on July 26, 1932.[3] Government-owned railways, seized by the Japanese military authorities during the period of occupation, were declared on February 9, 1933 to belong to the State of Manchoukuo.[4] The annual payments to British investors in the Peiping-Mukden Railway out of the revenues of that line were continued.[5] The telegraph and telephone systems were administered by the Japanese army after September 18, 1931, being transferred to the Manchoukuo government in July 1932.[6] As for private claims against the government, as successor to the former regime, a committee to study their liquidation was created in 1932.[7] This committee recommended payment of claims amounting to $9,000,000 (Manchoukuo *yuan*), a third in cash and two-thirds in bonds redeemable on June 30, 1935.[8] Actually $2,826,000 was paid in cash and $5,148,000 in bonds, a total of $7,974,000 (Manchoukuo *yuan*).[9]

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[1] Manchoukuo Government, Publications of the Department of Foreign Affairs, *Series No. 1.*, 11–15. These deal with the disposition of the customs revenue. For the treatment of the salt administration and revenue see Lytton Report, 102–103.

[2] *Ibid.*, 21–22.

[3] *Ibid.*, 9–10; Lytton Report, 105.

SALE OF THE CHINESE EASTERN RAILWAY

The most significant act of the new state of Manchoukuo in the field of foreign affairs has been the purchase of the Soviet-owned Chinese Eastern Railway. Negotiations for the transfer of the line were begun on May 2, 1933, when the Soviet commissar for foreign affairs, M. Litvinov, proposed to the Japanese ambassador in Moscow, Mr. Ohta, that either Japan or Manchoukuo should buy the railway. Count Uchida, Japanese foreign minister, referred the proposal to the Hsinking government, which received it favorably.[10]

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[4] Lytton Report, 96; Manchoukuo Government, Publications of the Department of Foreign Affairs, *Information Bulletins* Nos. 1–50, 49 (Bulletin No. 40).

[5] *Loc. cit., Manchuria Year Book,* 1932–33, 269.

[6] Manchoukuo Government, Publications of the Department of Foreign Affairs, *Information Bulletins* Nos. 1–50, 77–78 (Bulletin No. 30).

[7] *Ibid.,* 60.

[8] *Ibid.,* Nos. 51–120, 80–81 (Bulletin No. 92).

[9] *Ibid.,* Nos. 51–120, 207–208 (Bulletin No. 102).

The Soviet Union was led to make its proposal by the Japanese control of north Manchuria and by events consequent upon that control. Japanese supervision of all Manchuria placed the railway virtually within the system of the Japanese Empire. By building new lines parallel to or crossing the Chinese Eastern Railway, the Japanese were able to reduce the revenues of the latter from 38,000,000 gold rubles in 1929 to 18,000,000 in 1931.[11] Bandit attacks upon trains and railway offices were seriously affecting traffic. Unless the Soviet Government was prepared to assert itself by military intervention there was no alternative to ridding itself of danger and financial loss by the sale of the road.

The protest of the Chinese Government that under the Sino-Soviet and the Mukden agreements of 1924 the consent of China was necessary to a transfer of the line was rejected by M. Litvinov, who contended that Manchoukuo was *de facto* successor to Chinese rights and also that China had failed for 18 months to execute the agreements of 1924.[12]

Actual negotiations began in Tokyo on June 26, 1933. The U.S.S.R. was represented by Constantin Yurenev, ambassador to Japan, and Manchoukuo by Ting Shih-yuan, minister to Japan, and Mr. Ohashi, a

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[10] A full account of the negotiations, published anonymously, appeared in *Contemporary Manchuria,* I (1937), 42–70; a briefer résumé may be found in the *China Weekly Review,* March 16, 1935, 74–76; an excellent exposition of the background of the sale and of developments up to 1934 is given by Toynbee, A. J., *Survey of International Affairs,* 1933, 518–528; the documents are printed in the *China Year Book,* 1935, 138–147.

[11] Toynbee, A. J., *Survey of International Affairs,* 1933, 522.

[12] *Chinese Year Book,* 1935–36, 368–369; *Contemporary Manchuria,* I (1937), 44.

Japanese who was Manchoukuo's vice-minister of foreign affairs. Exercising the good offices of Japan as go-between—an obvious fiction—were Count Uchida, prime minister, and Mr. Shigemitsu, foreign minister. Although the original intimation of the Soviet's asking price was 300,000,000 gold rubles, on July 3 the figure was stated to be 250,000,000 rubles, equivalent to $125,000,000 dollars (U.S.) Manchoukuo offered 50,000,000 yen, equivalent to $10,500,000 (U.S.). In a lengthy statement of reasons for so low an offer, the Manchoukuo delegation repudiated the assumption that the Soviet Union was the sole owner of the line, rejected the basis of original capital investment in fixing present value, and reminded the U.S.S.R. of its debt of 300,000,000 yen to "our ally, Japan."[13] Manchoukuo also asked that the Soviet Union assume all liabilities incurred prior to transfer. Mr. Ohashi carried the burden of argument for Manchoukuo.

In September 1933 the Soviet Government alleged that Manchoukuo and Japan were considering forcible seizure of the railway. Arrests of several Russian railway officials appeared to give substance to this allegation. In October the Moscow government published documents which, if genuine, proved the truth of its charges. Japan, however, denied that such documents existed.[14] Negotiations were discontinued in October, not to be resumed until April 1934. Mr. Hirota had then succeeded to the foreign office and had persuaded Mr. Yurenev to set a new price in terms of yen. The new price then made was 200,000,000 yen ($42,000,000 U.S.), about one-third of the original demand. The gap between the bargainers was further reduced by an increase of Manchoukuo's offer to 100,000,000 yen. With Mr. Hirota's active assistance, and after numerous proposals and counter-proposals, an agreement was reached in September on a price of 140,000,000 yen and a further payment by Manchoukuo of 30,000,000 yen for retiring allowances of Russian employees. The settlement of matters of detail consumed another six months but on March 23, 1935 the basic agreement was signed at Tokyo by M. Yurenev, General Ting, and their assistants.

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[13] *Contemporary Japan,* II (1933–34), 366–374.
[14] Toynbee, A. J., *op. cit.,* 526–527.

The basic agreement stipulated that one-third of the purchase price was to be paid in cash and the balance in commodities. One-half (approximately) of the cash payment (46,700,000 yen), was to be paid on signature of the agreement, the balance in four equal installments within three years. The payment in commodities was to be completed within three years in six equal installments. The liabilities of the railway were divided between the Soviet Union and Manchoukuo. The senior Russian officials and such other Russian employees as Manchoukuo should see fit to remove were to be discharged on retiring allowances. Certain Russian public properties at Harbin, Manchuli, and Suifenho, including a school and a library at Harbin, were left in the hands of the Soviet Union. Provision was included for a subsequent agreement respecting through traffic arrangements and services at connecting points.[15]

In an accompanying protocol, to which Japan, Manchoukuo and the Soviet Union were parties, provision was made for a mediation commission composed of one Japanese, one Manchoukuoan, and two Russian members to deal with disputes over the prices of commodities delivered as payment in kind.[16] By notes of the same date between Japan and the Soviet Union, the former pledged itself to guarantee the payments agreed upon in money and in kind within the specified time limits.[17]

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[15] *China Year Book,* 1935, 140–145; *Contemporary Japan,* IV (1935–36), 142; *Nouveau recueil général de traités,* 3e série, XXX, 649, 663.

The Government of China on March 11, 1935 protested a second time to Moscow against the sale of the railway, repeating its earlier arguments and reserving all its rights and interests.[18] In a memorandum of March 18 to eight States, including Japan, the Nanking Government maintained that Manchuria was Chinese territory, that no state, "real or fictitious," had succeeded to China's authority or treaty rights there, and that the anticipated sale would be a violation of its rights as a sovereign and as a party to the Sino-Soviet agreements of 1924.[19]

The Chinese Eastern Railway company was the lessee of a plot of land in Pootung, part of the Chinese municipality of Greater Shanghai, valued at $210,000 (Chinese). The plot was registered at the consulate general of the United States as "U.S. Consular Lot No. 836." The Japanese Government considered that this property had been transferred to Manchoukuo as a part of "all the Chinese Eastern Railway properties," though no specific reference to it appeared in the agreement of transfer.[20] The property also was claimed by the Liquidation Office created by the Chinese Government after the action of the Russo-Asiatic bank in going into voluntary liquidation in 1926.[21]

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[16] *China Year Book,* 1935, 145–146; the members were named immediately (*China Weekly Review,* March 30, 1935, 143–144).

[17] *Ibid.,* 146–147.

[18] *Ibid.,* 138–139.

[19] *Ibid.,* 139–140.

[20] *China Weekly Review,* March 16, 1935, 76.

[21] *Ibid.,* March 30, 1935, 144; Toynbee, *op. cit.,* 523, note 2.

With its name changed to North Manchuria Railway, the newly-purchased line, like the former Chinese lines, was brought under the management of the South Manchuria Railway.

Friction on the Borders of Manchoukuo

A casual examination of the map of northeastern Asia reveals the cause of uneasiness in Manchoukuo's relations with its vast neighbor Soviet Russia. To the west lies Outer Mongolia, a Soviet puppet quite as truly as Manchoukuo is Japanese; between them is an ill-defined frontier with Mongols dwelling on either side. To the north, across the majestic Amur, is Siberia, which throws its Maritime Province, in a gesture of dubious friendliness, about the northeast shoulder of Manchoukuo. Vladivostok lies on the eastern flank, strongly fortified and garrisoned, a place of peril in the minds of the protectors of the new state. Having disregarded Chinese counsel that it would be safer with Manchuria in Chinese hands, as a buffer between itself and the Soviets, Japan now must consider whether its own defense and that of its ward require the expulsion of the Soviet Union from eastern Siberia. And if so, how to proceed.

Mutual distrust has provoked a succession of border clashes and has led to the massing of great armies on either side of the frontier, equipped with aeroplanes, tanks and artillery. In numerous cases, skirmishes have been due to differences of opinion concerning the location of the boundary line. Boundary marks are few and the country along the boundary is in places heavily wooded and mountainous.[22] River boundaries are not clearly determined in treaties. In other instances the pursuit of bandits or guerilla forces has failed to stop at the frontier. The flight of aircraft over the boundaries has been alleged on both sides.

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[22] Anon., "An Outline of the Manchoukuo-Soviet Border Controversy," *Contemporary Manchuria,* I (1937), 39.

To support its forces at the border, Japan, through the administration of the South Manchuria Railway, has constructed new lines of railway. One of these, from Tunhua to Tumen, extends the former Changchun-Tunhua line to the border district where Manchoukuo, Chosen and the Maritime Province of Siberia come together, an area which has been frequently the scene of minor skirmishes. Other lines designed in part for defense of the eastern frontier of Manchoukuo are one from Lafa to Harbin, another from Tumen via Mutankiang to Linkou, branching thence northward to Holikang and northeastward to Mishan, and a third from Shaho, lying northeast of Mukden, to Chian on the northern border of Chosen. To the north from Harbin the former Harbin-Hailun line has been extended to Heiho on the Amur river. This artery is supported by the railway from Tsitsihar to Peian. On the southwest the old Peking-Mukden line is connected by rail with Jehol city and Chihfeng. Westward a projection of the Hsinking-Paichengtzu line reaches to Solun and is being continued along the border with Outer Mongolia toward Hailar on the North Manchuria Railway.[23]

The four governments involved in the border clashes —Japan and Manchoukuo on one side and the Soviet Union and the Mongolian People's Republic on the other—have sought means of preventing serious conflict and of terminating controversy. In June 1935 a conference was convened at Manchouli at which the Manchoukuo delegation, prompted by and essentially represented by its Japanese adviser, asked for the establishment of regular diplomatic relations between Hsinking and Ulan Bator (Urga). Meeting an impasse in July, the conference was adjourned but was resumed in October. The Outer Mongolian delegation, controlled from Moscow, was determined not to acquiesce in the matter of establishing diplomatic relations and Manchoukuo insisted that it was futile to attempt the settlement of incidents without them. The conference was adjourned a second time on November 25. During the following year the Soviet foreign office proposed to Tamekichi Ohta, Japan's ambassador at Moscow, the appointment of a border investigation commission to deal with disputes between Outer Mongolia and Manchoukuo. On October 15, 1936 the Manchouli conference began its third session in a more conciliatory mood.[24]

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[23] Kadono, Chokyuro, *Development of Railways in Manchoukuo* (Japanese Council, Institute of Pacific Relations, 1936).

While these proposals were under consideration, similar methods were under consideration for dealing with border difficulties between Manchoukuo and the Soviet Union. In March 1936 the Japanese foreign minister, Mr. Arita, suggested the creation of two commissions, one to define and mark the frontier, the other to settle existing disputes respecting it.[25] In May the Soviet Union and Japan concluded an agreement in principle embodying these ideas. The committees, unfortunately, were not appointed, the U.S.S.R. refusing to go further with the plan after the publication of the German-Japanese pact against communism in November 1936. This development also disrupted the third session of the Manchouli conference.[26]

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[24] Anon., "Manchouli Conference and Its Background," *Contemporary Manchuria,* I (1937), 53–57.

[25] *Contemporary Japan,* V (June, 1936), 154.

The failure of diplomacy to reach working arrangements for dealing with boundary difficulties left the way open to fresh incidents in 1937. In June of that year, after a number of clashes had occurred, a bitter dispute arose over the occupation by Russian troops of the islands of Bolshoi and Sennukha (in Chinese, Chienmatzu and Kinmaki) in the Amur river, some 60 miles southeast of Blagovestchensk. Upon the strong insistence of the Japanese Government, the Soviet foreign office announced that the Union's troops would be withdrawn in order to ease the problem of deciding diplomatically the ownership of the islands, which was claimed with equal vehemence by both Manchoukuo and the U.S.S.R.[27]

FOREIGN TRADE AND INVESTMENTS

The proclamation of the "Manchoukuo Government" upon its own establishment, March 1, 1932, contained the statement that:[28]

> Foreign investments by any nation shall be welcomed for the furtherance of trade and the exploitation of natural resources, thus bringing the principles of the open door, equal opportunity and the like to a fuller realization.

Writing in the authoritative *Far Eastern Survey* for December 1, 1937 John R. Stewart declared that:[29]

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[26] "W," "Japan-Soviet Misunderstanding," *Contemporary Japan,* V (1936), 425; "Manchoukuo-Soviet Border Controversy," *Contemporary Manchuria,* I (1937), 39. See Appendix, Part III, 3 and 4.

[27] *New York Times,* June 28, 30, 1937.

[28] Manchoukuo Government, Publications of the Department of Foreign Affairs, *Series No. 1,* 6.

[29] *Far Eastern Survey,* December 1, 1937, 271.

> . . . For [foreign interests in Manchuria] in the five and a half years that have passed since the establishment of Manchoukuo, the Open Door has been a one-way passage—outward. Foreign trade, commercial enterprise and investments, other than Japanese, have been substantially reduced. . . .

Although the greater trading and capital-exporting powers have declined to recognize Manchoukuo politically, they have not withdrawn their consuls nor discouraged trade. As compared with a total import from the United States valued at 40,700,000 Manchoukuo dollars (*yuan*) in 1929, however, the average annual import of American goods into the state during the years 1934–36 was worth but 27,900,000 *yuan;* in percentage of total imports, the American share in 1929 was 7.9 while in 1934–36 it was only 4.5%. Taking the same years we find that British imports dropped from 15,200,000 *yuan* (2.9% of the total), to 8,700,000 *yuan* (1.4% of the total). German imports remained practically stationary—13,300,000 *yuan* (2.6%) in 1929 and 13,400,000 *yuan* (2.1%) in 1934–36. Imports from Japan and Korea rose from a value of 217,800,000 *yuan* (42.4%), to 466,600,000 *yuan* (73.9%). Total imports in 1929 were valued at 514,200,000 *yuan* and rose to an annual average for 1934–36 of nearly 630,000,000 *yuan.*[30]

It is apparent that the issue of the open door for trade into Manchoukuo is of slight importance to the United States or to European states since the amount of trade involved is very small and Japanese advantages of position, costs and political control are insuperable. The same may be said regarding direct investments which were, in 1930, almost entirely Japanese and Russian. At that time Japanese investments were estimated at 1,617,000,000 yen (70.45% of all foreign investments), Russian at 590,000,000 yen (25.71%), British at 40,000,000 yen (1.73%), American at 26,400,000 yen (1.15%) and French at 21,000,000 yen (.92%).[31] To certain businesses, however, which had enjoyed a favored position in the marketing of commodities largely produced in foreign countries, such as petroleum and tobacco, the trade within Manchoukuo had been of considerable value and they had invested appreciable amounts in business establishments. The British-American Tobacco Company saved itself by incorporating its Manchurian subsidiaries in Manchoukuo.[32] But the oil companies—Texaco (U.S.), Standard-Vacuum (U.S.), and Asiatic Petroleum (British-Dutch)—lost their retail business when the Hsinking government, contravening the open door promise, inaugurated a state monopoly in April 1935.[33] They may sell only to the Oil Monopoly Bureau amounts proportioned to their share of business prior to the establishment of the monopoly. Protests to the Japanese Government by the United States, Great Britain and the Netherlands were met by the response that Manchoukuo, not Japan, was responsible for the law.[34] Consequently the oil companies withdrew from Manchoukuo.[35]

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[30] *Far Eastern Survey,* December 1, 1937, 273; for approximate values in United States currency divide these figures by three.

The only government other than Japan to negotiate a trade agreement with Manchoukuo is Germany. Signed in Tokyo on April 30, 1936 by the ambassador of Manchoukuo, Hsieh Chieh-shih, and Otto Kiep, for the

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[31] Stewart, John R., in *Far Eastern Survey,* June 5, 1935, 82.

[32] *Far Eastern Survey,* December 1, 1937, 274.

[33] Manchoukuo Government, Publications of Department of Foreign Affairs, *Information Bulletins* Nos. 121–123 (old) and 1–65, 94–97 (Bulletin No. 56).

[34] *Far Eastern Survey,* September 9, 1936, 208.

[35] *Ibid.,* December 1, 1937, 272.

German Administration of Foreign Exchange, it became effective on June 1, 1936 and was renewed to May 31, 1940, on May 21, 1937.[36] The agreement takes account of the facts that Germany has a "favorable" balance of trade with Japan and an "unfavorable" balance with Manchoukuo. Germany agrees, unless prevented by difficulties of exchange, to import Manchoukuo products to the value of 100,000,000 *yuan* annually, Manchoukuo to import German goods valued at 25,000,000 *yuan*. During the first year of trade under the agreement, neither country approached its quota, Manchoukuo's purchases amounting to but 14,120,000 *yuan* and Germany's to but 52,580,000 *yuan*.[37]

The extension of foreign loans to Manchoukuo has been slight in view of uncertainty regarding security. Moreover, in view of the close relationship between national self-sufficiency and the importation of foreign capital it is apparent that governments which refuse recognition to the new state and subscribe to the Far East Advisory Committee's recommendations could hardly reconcile themselves to approval of loans by their banks or construction companies to that government or to private interests there. Under such circumstances loans may hardly be expected. The probability is that when loans are made, they will pass through Japanese hands. The recent announcement of the desire of Japanese industrial interests for a credit of $50,000,000 in the United States to be used for the purchase of machinery for developing heavy industry in Manchoukuo is suggestive of Japanese determination to control its financial policy.[38]

[36] *Contemporary Japan,* V (1936), 331–333; *Contemporary Manchuria,* I (1937), 102–103.

[37] *Oriental Economist,* IV (1937), 695.

[38] *New York Times,* January 17, 1938.

Various foreign financial missions have investigated opportunities for trade and investment in the new state. In 1934 the Federation of British Industries sent a mission under Lord Barnby to Japan and Manchoukuo. The mission reported favorably upon the prospect of sales of machinery and other products of the heavy industries to or through the South Manchuria Railway but was not encouraging as to the economic basis for loans to the government of Manchoukuo.[39] In 1933 and 1934 representatives of French engineering companies obtained a small contract for the erection of government buildings at Hsinking.[40] In September 1937 a credit of 2,000,000 pounds was arranged between the Central Bank of Manchoukuo and the Otto Wolff financial group of Germany to support the German-Manchoukuo trade agreement.[41]

If the export of capital to Manchoukuo by Occidental interests has been slight, that from Japan has been so large as to strain the resources of Japanese investors. During the five years 1932–36 Japanese investments are estimated at 1,166,000,000 yen.[42] These funds have been invested principally through loans to the government, the purchase of bonds and stocks of the South Manchuria Railway Company, and the establishment or expansion of private business and industrial concerns.[43] When the Japanese military outlay for the period, in Manchoukuo, is added—1,068,000,000 yen—the total burden involved in assuring the "life-line" of the Japanese empire is impressive.[44]

[39] *Report of Mission, Manchuria Daily News,* 1935.

[40] *Far Eastern Survey,* June 5, 1935, 84.

[41] *Oriental Economist,* IV (1937), 694–695.

[42] *Far Eastern Survey,* September 29, 1937, 232.

[43] Stewart, John R., *Manchuria Since 1931* (Institute of Pacific Relations, New York), 30.

[44] *Far Eastern Survey,* September 29, 1937, 231.

VII. JAPAN, NORTH CHINA, AND INNER MONGOLIA

Autonomy Movements

If one may judge by events the policy of the Japanese Government, after its easy alienation of Manchuria and Jehol, was to reduce the Chinese Government to vassalage and to bring China's people and territory into a Far Eastern economic bloc controlled from Tokyo. Again judging by events the Japanese regard China as divisible into regions of homogeneous culture and political inclination and marked by geographic unity. The apparent program was to establish control in sequence and by regions. Although Chinese civilization extends uniformly throughout the whole country, the influence of racial, historical and geographical factors, particularly in view of the slight development of means of communication, is observable in the limited growth of nationalism and the tendency toward political regionalism. To take timely advantage of a situation that is bound to give way and has recently been giving way before new political and economic forces working for unification appeared to be the policy of Japan.

Having added Jehol to Manchoukuo, the Japanese command faced the problem of defending it against possible, if improbable, attack from below the Great Wall; and its desire to establish a buffer zone between Manchoukuo and the Chinese armies prompted an immediate military thrust into Hopei, part of which lay north of the Wall and had been appropriated along with Jehol. This move also would add weight to the diplomatic pressure being exerted at Nanking for recognition of Manchoukuo.

The north China offensive began on April 1, 1933 and was completed, after some serious resistance, on May 27.[1] Neither Tientsin nor Peiping was occupied by Japanese troops. The fighting ceased when Nanking sent General Huang Fu, known as friendly to Japan, to organize and head a political council at Peiping. Since March 13, 1933, when General Chang Hsueh-liang retired from office, the city and the province of Hopei had been governed by the minister of war, General Ho Ying-chin. The new dispensation enabled the Chinese military staff at Peiping to enter into an arrangement with the Kwantung army, known as the Tangku Truce, on May 31. This created a demilitarized zone between the Great Wall and a line drawn from east to west and passing a few miles north of Tientsin and Peiping.[2] The Japanese army was to withdraw to the Wall. Police duties were to be performed by a special Chinese force and the observance of the Chinese promise to withdraw all other troops might be verified by aeroplane or other means.[3]

Charges made by Chinese elements opposed to the truce that it was accompanied by secret understandings have not been proved. However, the truce had important consequences for relations between China and Manchoukuo. Customs offices were opened at Shanhaikwan and five other gateways in the Great Wall in June and August 1934. Through traffic on the Peiping-Liaoning (Peking-Mukden) railway was restored on July 1, 1934.

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[1] *Current History,* June, 1933, 383–384.

[2] *Ibid.,* July, 1933, 508–510.

[3] For text *infra,* see appendix, 284.

Postal communications were re-established on January 6, 1935. Air routes were opened from China into Manchoukuo on November 17, 1936.[4] By these arrangements China's policy of non-recognition was reduced to a fiction. While his Government's policy was being devitalized General Chiang K'ai-shek was fighting armies of his own people in remote southwestern China.

The stages in the progress of the Japanese project for the alienation of northern China are difficult to follow in the absence of unpartisan materials. The main lines of development are, however, quite clear. For four years, 1933–37, the hope was entertained that Chinese politicians, civil and military, might be found in Hopei, Shantung and Shansi who were willing to lend their influence and their armies to a relatively bloodless *coup d'état*. In Chahar and Suiyuan, new provinces of Inner Mongolia, the discontent of the Mongols was played upon. Shift after shift occurred in administrative personnel as the search went on for amenable officials. What rewards were offered, what persecutions suffered, what threats made are not likely to be revealed. In the end the effort failed, and then came recourse to "incidents" and military action.

The Japanese forces had occupied the border city of Dolonor in Chahar province on May 1, 1933 in the course of their occupation of Jehol. Thereafter, the first obvious move toward an autonomous north China was the announcement by one Yin Ju-keng, who had been appointed administrator over one of the two districts into which the demilitarized zone was divided, that he was constituting his district the Anti-Communist Autonomous Government of East Hopei. His seat of government was Tunghsien (Tungchow), his district comprised 22 *hsien* or counties, and he had the protection of a small Japanese force. This action occurred in November 1933 and was clearly in derogation of the Tangku truce.[5] A somewhat similar move in Northern Chahar occurred at this time, a Chinese general, Li Shou-hsin establishing himself in that area with Japanese aid.[6] About one month later the Peiping council gave way to the Hopei-Chahar Political Council with General Sung Cheh-yuan, former governor of Chahar, as chairman.[7] The National Government had a hand in the last-mentioned maneuver, which was aimed at conciliating the Japanese while maintaining a measure of authority in Nanking.

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[4] Hsü, Shuhsi, *The North China Problem,* 10–15 (Shanghai, Kelly & Walsh, 1937).

Meanwhile at Pailingmiao, in Suiyuan province, conferences were held in April and October 1933 under the leadership of Prince Teh, one of the younger Mongol dissenters from the unification policy of republican China. Prince Teh and his colleagues desired nothing less than an autonomous Inner Mongolia, to be attained by separating the Mongol grass lands from the newly created border provinces—Chahar, Suiyuan and Ninghsia—and establishing a distinct Mongol system of government in the detached area.[8] In an effort to conciliate the Mongols, Nanking authorized and offered to subsidize a Mongolian Autonomy Council. It also decreed that encroachment by Chinese farmers upon the pasture lands would be stopped. The Council was convened on April 23, 1934.[9] As at Peiping the Chinese had managed to check-mate the proponents of partition.

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[5] Hsü, *op. cit.*, 31, 34–35.

[6] *Ibid.*, 35.

[7] *Ibid.*, 34.

[8] *China Year Book*, 1935, 35–36.

[9] Hsü, *op. cit.*, 53–55.

During 1934 Japan was deeply concerned in negotiations for the purchase of the Chinese Eastern Railway.[10] When that problem was settled pressure again was exerted toward a satisfactory situation in north China. During 1935 the transfer of Chinese forces in Hopei was insisted upon, and the Peiping branch of the National Military Council was forced to dissolve, as were the offices of the Kuomintang in Hopei and Chahar.[11] Yin Ju-keng was made administrator of the whole demilitarized zone. Late in the year Major-General Kenji Doihara of the staff of the Kwantung army let it be known that the five provinces of north China—Hopei, Chahar, Suiyuan, Shantung and Shansi—were ready to unite in an autonomous regime, and there was general apprehension of a movement of Japanese troops from Manchuria to support it. But for reasons still unexplained the adventurous project proved abortive and Doihara was transferred to a position in Tokyo.[12] General Sung Cheh-yuan remained as chairman of the Hopei-Chahar council. Japanese garrisons were increased in number and strength.

The year 1935 also saw an expansion of Japanese control in Chahar province. On February 2 at Tatan in Jehol a strip of territory between the Great Wall and Jehol, though regarded by the Chinese as part of Chahar, was recognized by them as belonging to Jehol.[13] On June 23 by the agreement between Generals Chin Te-chun and Doihara, certain Chinese forces were compelled to leave Chahar.[14]

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[10] See *supra,* 69.

[11] Hsü, *op. cit.,* 18, gives these and other purported items of an agreement between generals Ho Ying-chin and Y. Umetsu.

[12] *China Year Book,* 1936, 175; *Oriental Economist,* August 1937, 459.

[13] Hsü, *op. cit.,* 20. [14] *Ibid.,* 21.

As Prince Teh's faction was concerned to create an autonomous Inner Mongolia, it was inevitable that the increase of Japanese influence in Chahar should stimulate greater willingness to bargain for Japanese aid in the enterprise. It may be noted that the Japanese had paved the way into Teh's confidence by accommodating the Manchurian Mongols with a separate provincial administration adapted to their culture. Account must also be taken of the opposition of the more conservative leaders in Inner Mongolia to being drawn into the orbit of the Soviet Union by incorporation into Outer Mongolia. Following a rupture in the Pailingmiao junta in February 1936, Prince Teh set up a government, with Japanese advisers at Chapssu in northern Chahar. His attempt to seize Kweisui, capital of Suiyuan, in November failed, though aided by Mongol and Chinese troops from Manchoukuo.[15] At Chapssu he relied upon the army of General Li Shou-hsin and the support of Japan.

ECONOMIC ASPECTS OF JAPAN'S PROGRAM

Foreign Minister Koki Hirota stated in the Japanese Diet on January 23, 1934 that:[16]

> . . . Our Government sincerely hope for the political and economic rehabilitation of China. They hope that she will be enabled to unite with Japan in performing the obvious mission of both Japan and China to contribute through mutual aid and co-operation to the peaceful development of their part of the globe.

This statement struck the keynote of the Japanese attitude—co-operation for mutual advantage. To Occidental minds the essence of co-operative relationship is a voluntary meeting of minds. Not so to the Tokyo Government. To them co-operation meant a literal working together, by agreement if possible, by compulsion of the weaker party if necessary. Thus it was that public and private efforts were engaged strenuously during the years 1933–37 to find outlets for Japanese merchants, manufacturers and bankers in north China.

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[15] Hsü, *op. cit.,* 55–59; *New York Times,* April 6, 1937.

[16] *China Year Book,* 1934, 724; *Contemporary Japan,* II (1933–34), 764.

North China was regarded as fruitful ground. The iron reserves of Chahar, Hopei and Shantung amount to 60% of the remaining deposits of China; Japan's steel industry looks to them as well as to those in Manchuria to maintain it.[17] The production of cotton was another object of industrial planning, arousing hopes of independence of the American market. Similarly, wool was to be obtained in lieu of the Australian product. Exploitation of coal and oil reserves was contemplated. Sixty per cent of China's coal lies in Shansi. Railway building on a large scale was a part of the program. And the base of the hoped-for pyramid of economic development and consequent prosperity was trade.[18]

Typical of the co-operative organizations of Chinese and Japanese business-men was the Sino-Japanese Trade Association, inaugurated at Tokyo in October 1935. It included a number of reputable business men of both countries.[19] Different in character but also seeking co-operation was the China Development Company, a subsidiary of the South Manchuria Railway Company, which was prepared to invest part of its earnings in north China.[20] The net results of the effort for co-operation were negligible. What did happen was the purchase of several large Chinese cotton mills in Tientsin by Japanese companies.[21] The *Oriental Economist* stated that "little has been accomplished in undertakings of any appreciable magnitude." It placed the blame for the stalemate upon the Nanking Government: "In military and financial affairs the centralizing force of Nanking has been extended throughout North China, and these trends were invariably accompanied by an intensifying of anti-Japanese sentiment." [22]

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[17] Shiman, R. G., "The Iron Reserves of Chahar," *Far Eastern Survey,* February 13, 1935, 17.

[18] Shiman, R. G., "North China in a Japanese Economic Bloc," *Far Eastern Survey,* December 18, 1935, 201–205.

[19] *Ibid.,* 200.

To understand the attitude of Nanking is not difficult in view of events since September 18, 1931. But additional reason for suspicion of the sincerity of the co-operative policy was deduced by the Chinese Government from Japanese diplomatic proposals in 1936. Before turning to this subject, notice must be taken of the smuggling operations of Japanese interests. These were extensive in north China but were not confined to that part of the country. These operations became important in April and May 1935 with the clandestine export of large quantities of silver. In September Japanese military authorities compelled the Maritime Customs Administration to cease searching vessels along the coastline controlled by the East Hopei autonomous government. In March 1936 the color of legitimacy was given to the customs administration of the area by the imposition of duties at one fourth the legal rate. Large quantities of Japanese goods were landed and distributed throughout China, with enormous loss to the National treasury. The refusal of the Japanese

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[20] *Far Eastern Survey,* January 1, 1936, 8.

[21] *Ibid.,* August 12, 1936, 185–186; October 21, 1936, 229–230.

[22] *Oriental Economist,* August 1937, 459.

Government to admit responsibility was obviously inacceptable in view of its control of Yin Ju-keng's regime.[23]

MENGKUKUO

Events soon took a more rapid course toward partition. The Hopei-Chahar council seized revenues derived from the tobacco tax and from the operation of the salt gabelle.[24] The personnel of the council took a more pro-Japanese cast with the appointment of Tsao Ju-lin, Shih Yu-san and Tang Er-ho. On the other hand, the chairman of the governing commission of Shantung, General Han Fu-chu, was opposed to placing his province within the north China bloc and appeared to be inclining toward closer co-operation with Nanking.[25] At Chapssu (Chia Pu Su) Prince Teh formally proclaimed the independence of Inner Mongolia on June 27, 1936. The state thus declared to exist incorporated portions of Chahar, Suiyuan and Ninghsia and a Mongol population of 2,500,000.[26] Actually, at the moment of establishment the jurisdiction of Prince Teh did not extend beyond northern Chahar. But a concurrent push of General Li Shou-hsin's army, supported by the Japanese, into Suiyuan was interpreted in China as the initial move toward rounding out the new state.[27]

Later in 1936 serious military operations against the Chinese administration in Suiyuan were undertaken by Prince Teh's Mongol and Chinese forces aided by

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[23] Hsü, *op. cit.,* 37–40; *Far Eastern Survey,* May 25, 1936, 110–111; November 4, 1936, 238–239.

[24] *China Weekly Review,* June 27, 1936, 118.

[25] *Ibid.,* August 22, 1936, 418.

[26] *Ibid.,* August 1, 1936, 311.

[27] *Ibid.,* August 29, 1936, 454; the appellation "Mengkukuo" apparently was not formally announced; it began to appear in news accounts about a year later.

Manchoukuan Chinese and a Japanese air force. Major General Seiichi Kita, attaché at Shanghai, explained Japan's assistance as logical in view of her insistence that an anti-communist area be established around Sovietized Outer Mongolia. Strangely enough he admitted that Japan was being paid in opium for its aeroplanes and military guidance. He also stated that General Sung Cheh-yuan had entered into a neutrality pact with Prince Teh.[28] Forces controlled by General Chiang K'ai-shek were sent to aid the Suiyuan army.[29] The invaders were beaten back at the end of November and driven out of the province.[30]

If the Japanese had no railways to show for their years of maneuvering for concessions in north China, they were able after November 18, 1936 to point to one success, the establishment of a commercial air line between Peiping and Dairen. The line was authorized by the Hopei-Chahar Political Council and was managed by the Hui Tung Company, which had a Chinese president and a Japanese vice president. It had connections in Manchoukuo with the lines of that government, of Korea, and of Japan, and was the first foreign air line to obtain landing rights in China.[31]

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[28] *New York Times,* November 17, 1936.

[29] *Ibid.,* November 23, 1936.

[30] *Ibid.,* November 26, 1936.

[31] *Christian Science Monitor,* November 18, 1936.

VIII. DIPLOMATIC PRESSURE FOR SINO–JAPANESE CO–OPERATION

The diplomacy of Japan at Nanking, which failed and therefore was discarded for sterner measures, may be viewed as introduced by the statement of Foreign Minister Hirota already quoted. One of the aims of the strenuous efforts of the Tokyo Government was to bring the Chinese Government into line with a policy of partition of its own domain, a policy designed to set off from the rest of the country a rich and populous region of five provinces, in area 393,000 square miles. This, however, being but one phase of Japan's continental policy, namely, the subordination of China's development to its own, it should contribute clarification to deal with the course of Sino-Japanese diplomacy from the Tangku truce (May 31, 1933) to the outbreak at Lukouchiao (July 7, 1937) as a single topic. What the views of the Japanese foreign office may have been during the process of persuasion must be left to later revelation. For practical purposes those views were negligible. Diplomacy was the velvet glove on the iron hand of a determined military government.

Notice of the full import of Japanese policy was served upon China and the world at large by the declaration of Eiji Amau, director of the intelligence bureau of the foreign office, on April 18, 1934.[1] Prefacing his statement with a reference to his country's withdrawal from the League of Nations because of its disagreement with the League on "the fundamental principles of preserving peace in East Asia," Mr. Amau made it very clear that Japan thought its right and duty were to act alone "to keep peace and order in East Asia" and that China alone was entitled to share this responsibility with it. He went on to say that China's unification, territorial integrity and political reordering could only be achieved by its own people.

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[1] Appendix, 285.

Mr. Amau's conclusions follow logically enough his first rather than his second premise. Japan would oppose "any joint operations undertaken by foreign powers even in the name of technical or financial assistance. . . ." It would go even further in its objections, being prepared to oppose such acts of foreign nationals as "supplying China with war planes, building aerodromes in China and detailing military instructors or military advisers to China, or contracting a loan to provide funds for military uses. . . ." One small avenue was left open: foreign countries might negotiate "individually with China on questions of finance or trade, as long as such negotiations benefit China and are not detrimental" to peace.

Mr. Amau explained in conclusion that his declaration was made because "positive movements for joint action in China by foreign powers under one pretext or another are reported to be on foot." He might also have recalled that various Governments were making loans to China and that their citizens were acting as military advisers and selling it arms and aeroplanes.

The Chinese informal statement of April 19 rejected the main premise of Mr. Amau's argument:

> China is always of the opinion that international peace can be maintained only by the joint efforts of all members of the family of nations. . . . No State has the right to claim the exclusive responsibility for maintaining international peace in any designated part of the world.

It asserted that China's collaboration with other Governments had been nonpolitical, that its purchases of arms were for defensive purposes only and that existing Sino-Japanese relations needed rectification in the direction of mutual good will and understanding.[2] In a second statement on April 25, the Government declared that "the sovereignty and the independent character of the Chinese Republic does not permit of any infringement by any nation upon whatever pretence." The same principle applied to its relations with the League. Japan, it was held, rather than China, was placing the open door doctrine in jeopardy.[3]

China could not afford and did not attempt to put obstacles in the way of better relations with Japan. Standing on the principle of equality, the Government expressed a desire for more friendly dealings. It was encouraged in this attitude by Mr. Hirota's speech of January 23, 1935 in the Diet, which viewed Chinese conditions as unstable but somewhat improved and laid down no specific *desiderata.* Restraint was placed by Nanking upon the anti-Japanese boycott committees. In February Dr. Wang Ch'ung-hui stopped in Tokyo en route to The Hague and spent a fortnight in discussions with political and business leaders.[4] China protested to Moscow but not to Tokyo at the sale of the Chinese Eastern Railway to Manchoukuo in March 1935.[5]

Mr. Shigemitsu, Japanese vice minister of foreign affairs, issued on March 6 a statement on Sino-Japanese policy which spoke of a "rapprochement" between the two Governments as "the result of the mutual discovery

[2] *China Year Book,* 1934, 726.
[3] *Ibid.,* 726–727.
[4] *Ibid.,* 1935, 135; Hsü, *op. cit.,* 79–80.
[5] *Ibid.,* 1935, 138–139.

that there is perfect concurrence between the Greater Asia doctrine of the late Dr. Sun Yat-sen and the Oriental doctrine of the Japanese people." He reemphasized the idea of co-operation in economic matters and after referring to China's objection to the Consortium, asserted that "Japan will flatly refuse to participate in a discussion to give international economic assistance to China, as such a step will be tantamount to making China a colony of the senior powers." [6] The act of Japan in transforming its Chinese legation into an embassy in May 1935 seemed to augur well for the future.[7] To meet Japanese wishes respecting expressions of hostile sentiments, the Nanking Government issued on June 10 a "good will mandate" which enjoined all citizens to "observe proper amenities towards friendly nations, and not indulge in discriminatory or provocative speeches or acts on pain of severe punishment." [8]

In negotiations between Chiang Tso-pin, ambassador to Japan, and Foreign Minister Hirota, in August, China again offered co-operation on condition that Japan would treat it as an independent state and cease to endanger its territorial entity. In the absence of an official rendering of Mr. Hirota's response at that time we may take his three-point statement of policy before the Diet on January 21, 1936 as a sufficient substitute: [9]

> The first point is concerned with the basic readjustment of the Sino-Japanese relations. . . . What we want is not only such a negative attitude on the part of China but her active and effective collaboration with Japan. . . . I

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[6] *China Year Book,* 136–137.

[7] *Contemporary Japan,* IV (September, 1935), 291.

[8] *China Year Book,* 1936, 176–177. Circular instructions to local party organs were obsequious in their deference to Japanese feelings.

[9] *Contemporary Japan,* IV (March, 1936), 637–638.

> am sorry that our endeavors . . . have not brought forth fully satisfactory results so far.
>
> . . . We are convinced [in the second place] that . . . the Chinese Government should recognize Manchoukuo. . . . [Until this is done] a temporary measure should be devised in order to prevent any untoward eventuality. . . .
>
> . . . The suppression of the communist activities . . . is a matter of vital importance. . . . Herein lies the third point. It is the desire of the Japanese Government to cooperate with China in various ways for the eradication of communism.

Mr. Hirota then asserted that:[10]

> The Chinese Government not only has indicated its concurrence with our views, but has proposed recently to open negotiations . . . along these lines. . . . The Japanese Government have communicated their acceptance of the Chinese proposal, and are awaiting the notice from the Chinese Government of the completion of its preparations. . . .

In the words of Professor Hsü Shu hsi of Yenching University, Peiping:[11]

> . . . the three Hirota principles meant practically this: that China shall recognize the *fait accompli* in Manchuria, Jehol, Hopei and Chahar, forsake the world, and make common cause with Japan against Soviet Russia. That was obviously more than any government could accept.

No official denial of Mr. Hirota's assertion that Nanking had concurred in principle with his three-point program was issued, though a spokesman for the Chinese foreign office stated to correspondents on January 22 that his Government merely had asked for concrete terms.[12] Following an armed mutiny of an army unit in Tokyo on February 26, in which three high officials were killed and others wounded, Mr. Hirota succeeded Admiral Keisuke Okada as premier and Hachiro Arita, ambassador to China for only a few weeks, became foreign minister. Addressing the Diet on May 6, 1936, Mr. Arita affirmed that negotiations were contemplated on the basis of Mr. Hirota's three principles and stated that "it is our intention to urge the Chinese Government to make up their mind. . . ." He referred with concern to the invasion of Shansi by a Chinese communist army.[13]

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[10] *Contemporary Japan,* IV (March 1936), 638–639.

[11] Hsü, *op. cit.,* 82.

Shigeru Kawagoe was appointed ambassador to China. He had served as a consular officer in Manchuria and north China and was regarded in China as a partisan of the regional program and a protégé of the Kwantung army.[14] A number of staff officers of the latter had been transferred to Tokyo after the February uprising and there had replaced older men who had resigned in token of responsibility for so grave a breach of discipline. Thus the advocates of extreme measures were firmly established.[15] Tangible evidence of this fact was the increase of Japanese troops in north China by several thousand during May 1936.[16]

As consul general at Tientsin Shigeru Kawagoe had taken part in negotiations between the Japanese army leaders and the Hopei-Chahar political council for economic concessions and a joint program against communism. His appointment was the signal for a declaration by General Li Tsung-jen, commander of the armies in Kwangsi province and a member of the Kuomintang, that the Chinese must unite, cease procrastinating and begin to fight for salvation from Japanese aggression.[17] This statement was coincident with a similar strong denunciation of Japanese troop movements by the Kuomintang executive committee at Canton.[18] The troops of Kwangtung and Kwangsi were named the anti-Japanese national salvation forces and their commanders threatened to advance against Nanking unless a policy of military resistance to Japan was adopted.[19] This movement collapsed in July, its early death indicating that General Chiang K'ai-shek was able to convince some of its promoters that it was inopportune and to force out recalcitrants by winning over their confederates. Unsatisfactory terms of settlement caused a revival of southern opposition in August which was terminated by a new compromise.[20]

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[12] *China Weekly Review,* February 1, 1936, 297.

[13] *Contemporary Japan,* V (1936), 155.

[14] *China Weekly Review,* April 25, 1936, 263; May 2, 1936, 289–290.

[15] *Ibid.,* May 16, 1936, 370–372.

[16] *Ibid.,* May 23, 1936, 414–416. (These additions raised the Japanese force in north China to 8,000 men.)

The growing tension in Sino-Japanese relations was evidenced by a number of attacks upon Japanese individuals in widely separated parts of China. At Shanghai in November 1935 a marine, Hideo Nakayama, and at Swatow, Kwangtung province, in January 1936 a consular policeman were killed.[21] A third death by violence was that of a merchant, at Shanghai in July.[22] The most serious incident occurred at Chengtu, Szechwan, in August when rioters killed two journalists and wounded other persons.[23] At Pakhoi, Kwangtung, in September a druggist was stabbed to death,[24] and in the same month a marine and a consular policeman were shot dead, the former in Shanghai and the latter in Hankow.[25] These acts of violence, viewed as outrages by the Japanese and as regrettable but inevitable gestures of resentment by the Chinese, prompted an exodus of Japanese civilians from interior Chinese cities.

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[17] *China Weekly Review,* June 6, 1936, 8–9.

[18] *Ibid.,* June 6, 1936, 10.

[19] *Ibid.,* June 13, 1936, 49–51. Reports of a Japanese loan of $5,000,000 silver to Kwangsi (*China Weekly Review,* June 27, 1936, 122) and of dissension over internal political and fiscal issues (*ibid.,* July 4, 1936, 163) left the real motivation of these threats uncertain.

[20] *Ibid.,* September 12, 1936, 48.

[21] *Ibid.,* February 8, 1936, 343.

[22] *Ibid.,* July 18, 1936, 244.

During a session of the Central Executive Committee of the Kuomintang in July 1936, a resolution was brought in by Kwangsi members proposing immediate military action against Japan. It failed to pass. General Chiang K'ai-shek at that time uttered his interpretation of national policy:[26]

> All Chinese know that we have to save the country, to defend her. But in saving the country or defending her what kind of a step should we take? . . . What the Central Government considers to be the absolute minimum in foreign relations is the maintenance of our territorial sovereignty intact. If any nation should seek to violate our territorial sovereignty, it would be absolutely impossible for us to endure. We shall definitely refuse to sign any agreement that violates our territorial sovereignty, and shall definitely refuse to endure actual violation thereof . . . in the event that all political and diplomatic means are exhausted and the violation is still not repelled, it will mean that the fundamental existence of our nation and our race is threatened, it will mean that it is impossible for us to endure any longer. When that time comes, we shall not hesitate to make sacrifices.

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[23] *China Weekly Review,* August 29, 1936, 466; September 5, 1936, 24.

[24] *Ibid.,* September 19, 1936, 80.

[25] *Ibid.,* September 26, 1936, 116.

[26] Hsü, *op. cit.,* 90–91.

Ambassador Kawagoe and Foreign Minister Chang Chun opened negotiations for a settlement of general principles of Sino-Japanese relations on September 15, 1936 under the extremely unfavorable auspices above outlined. The attitude of the Japanese Government in the premises was expressed by Foreign Minister Arita in an interview of September 28; he stated that Japan sincerely desired a diplomatic settlement but that "opinion is steadily gaining ground among the Japanese public and among the Japanese in China that any further negotiations with China are useless." [27] Mr. Kawagoe found the Chinese foreign minister General Chang Chun adamant in opposition to certain of his proposals. The latter included recognition of the autonomy of the five northern provinces—Chahar, Hopei, Suiyuan, Shansi and Shantung—co-operation along economic lines, particularly as to tariff rates, suppression of anti-Japanese sentiment, recognition of Manchoukuo, joint action against communism and establishment of a Sino-Japanese air service.[28] According to a statement of the Japanese foreign office on December 10, the Chinese negotiators at first agreed to suppress all forms of anti-Japanism, to promote co-operative economic development in north China, to employ Japanese advisers and to reduce tariffs. Subsequently, these advances were nullified and the negotiations were discontinued in December.[29] The Chinese refused to resume negotiations until the Suiyuan problem was settled, whereupon Mr. Kawagoe gave up the lengthy effort to persuade Chang Chun that the shell of a nut is better than no nut at all. Mr. Arita, however, informed the Diet on January 21,

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[27] *Contemporary Japan,* V (December, 1936), 514.

[28] *Christian Science Monitor,* October 3, 1936, 1; *New York Times,* October 6, 1936, 19; *China Weekly Review,* October 17, 1936, 226.

[29] *Contemporary Japan,* V (March, 1937), 699–700.

1937 that he believed both nations to be desirous of a renewed effort toward adjustment.[30]

The strong pressure upon Nanking to present a bold front to Mr. Kawagoe was dramatically evidenced by the kidnapping of General Chiang K'ai-shek at Sian, capital of the western province of Shensi on December 12. His captor was the former ruler of Manchuria, General Chang Hsueh-liang, who was supported in the *coup* by General Yang Fu-cheng, military commissioner of Shensi.[31] The former had been in charge of anticommunist operations but had become convinced that the long campaign against the red armies was suicidal and had taken this means of bringing the Chinese generalissimo to consider some basis of compromise, in anticipation of early war with Japan.[32] Whether or not, General Chiang was privy to the plot may never be known. Chang Hsueh-liang had not previously distinguished himself for courage, and the lenient treatment subsequently accorded him was inconsistent with an act of treachery. In any case, the capture of Chiang had significant results. It produced a nation-wide demonstration of loyalty,[33] and it led to the conclusion of a pact of tolerance on January 28, 1937 between the Nanking Government and the rebellious generals in

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[30] *Contemporary Japan,* V (March, 1937), 712.

[31] *New York Times,* December 14, 1936; one account of the affair, first published serially in the *New York Times,* is available under the title *Sian: A Coup d'État* by Mayling Soong Chiang and Chiang K'ai-shek; another is in Edgar Snow's *Red Star over China.*

[32] *New York Times,* December 23, 1936; January 12, 1937; *China Weekly Review,* February 27, 1937, 433–436, 442.

[33] There were, on the other hand, rumors that a faction at Nanking, led by the chairman of the Central Political Council, Wang Ch'ing-wei, abroad at the time, and General Ho Ying-chin, minister of military affairs, which was extremely hostile to a compromise with the red armies, was plotting to bring about Chiang's death by attacking Sian, ostensibly to free him (*New York Times,* January 12, 1937).

Shensi, headed by Yang Fu-cheng. By this agreement, which dealt only in part with the communist armies, the latter were authorized to occupy northern Shensi. Subsequently the Central Executive Committee of the Kuomintang voted to approve the incorporation of these forces within the national military organization.[34] Thus, in principle at least, a united front was consummated.

That the Japanese Government was seriously desirous of a diplomatic settlement at Nanking and anxious to avoid open war with China while consolidating its control in north China was indicated both by its failure to resume the application of pressure during the Sian difficulty and by its subsequent moderation in treating with the Chinese Government. However, it is to be noted that the winter of 1937 was, like that of 1936, a period of internal struggle between the Japanese political parties and the more aggressive military officers who desired to reduce the Diet to the status of a mere consultative assembly.[35] Premier Hirota's government was bitterly assailed by members of the House of Representatives for its alleged deference to the views of the army and its leanings toward fascism. The signature of the anti-communist pact with Germany on November 25, 1936 was branded as a clumsy act exhibiting dual diplomacy at its worst.[36] The cabinet resigned on January 23, 1937 and after General K. Ugaki had failed to persuade a military officer to take the ministry of war, General Senjuro Hayashi was appointed premier and formed a government.[37]

The Hayashi cabinet, with Naotaké Sato, a seasoned diplomat, as foreign minister, and constituted without party representation, made no reference to the ambitious China program of its predecessor. In his first address to the Diet on foreign policy, February 15, General Hayashi said:[38]

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[34] *New York Times,* January 29, 1937; *China Weekly Review,* February 27, 1937, 442–443; May 1, 1937, 325.

[35] *New York Times,* December 25, 1936.

[36] *Ibid.,* January 22, 1937; November 26, 1936.

[37] *Ibid.,* January 30, 1937.

> I believe that it is of urgent necessity at this juncture to cultivate cordial feelings between the two nations. . . . We must foster mutual appreciation and bring about closer contact not only between the two Governments but also the two peoples, and achieve in more concrete form co-operation and mutual assistance of the two countries.

Although General Gen Sugiyama, minister of war, dispatched additional forces to north China in February,[39] Foreign Minister Sato used most conciliatory tones in speaking to the Diet on Chinese policy on March 8:[40]

> China demands treatment on an equal footing. This wish should be respected and past differences forgotten.

The very favorable reaction in China and in Occidental countries to Mr. Sato's frank recognition of Japan's mistakes and to his advocacy of co-operation rooted in mutual respect was shown to have been too optimistic when the Diet was arbitrarily dissolved on March 31 after passing the budget.[41] Since the leaders of the army could not expect a favorable vote in the ensuing election under the circumstances, it was clear that their insistence upon dissolution denoted readiness to dictate the composition of a new cabinet, whatever the returns might reveal concerning popular sentiment. The election on April 30, 1937 returned a large majority for the anti-government parties; nevertheless, Premier Hayashi remained in office until May 31, when he was advised by his military confrères to resign in order that preparations for a new budget might be begun with a cabinet less distasteful to the House of Representatives.[42] It then developed that the major parties, the Seiyukai and the Minseito, were not opposed to a militarist policy toward China but were simply intent upon obtaining representation in the cabinet. They accepted Prince Fumimaro Konoe wholeheartedly when assured that each of them would have a member at the head of a ministry.[43] Prince Konoe recalled Mr. Hirota to the foreign office and retained General Sugiyama as minister of war. It was tacitly admitted by this triumvirate that Japan's irrevocable objective was an East Asiatic bloc—Japan, China and Manchoukuo—its members co-operating economically and strategically under the shield of Japan's military power.[44]

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[38] *Contemporary Japan,* V (March, 1937), 717–718.

[39] *New York Times,* March 1, 1937.

[40] *Ibid.,* March 9, 1937.

[41] *Ibid.,* March 31, 1937.

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[42] *New York Times,* June 1, 1937.

[43] *Ibid.,* June 3, 1937.

[44] *Ibid.,* June 26, 1937.

IX. INTERNATIONAL EFFORTS TO SETTLE THE CONTROVERSY[1]

The Assembly and the Council of the League of Nations were both in session when the outbreak of hostilities occurred at Mukden on September 18, 1931. This enabled Dr. Alfred Sze, Chinese representative on the Council, to bring before that body on September 21, the appeal of his Government under Article 11 of the Covenant. China asked the Council to take action to restore the *status quo*, to conserve peace and to assess damages. The Council began immediately its efforts to persuade the Japanese Government to withdraw its forces from occupied places outside the zone of the South Manchuria Railway. These efforts appeared, in the light of Japanese statements, to be succeeding, but subsequent operations, already recounted, demonstrated that the Japanese army command had determined to overrun the whole of Manchuria.[2]

The 65th session of the Council, which continued with several periods of recess from September 19 to December 10, 1931, was informed by the Japanese member, Kenkichi Yoshizawa, that his Government desired to settle the incident by direct negotiation. Dr. Sze proposed that a League commission of investigation be sent to the scene of action and insisted that the Japanese forces must be withdrawn before direct negotiations could be undertaken. From the outset of its deliberations the Council kept the Government of the United States informed on each step of its procedure and furnished it with all available information. The Secretary of State, Henry L. Stimson, as early as September 23, informed the League Council that: "the Government of the United States is in whole-hearted sympathy with the attitude of the League of Nations," and adopted a parallel procedure to prevail upon the Japanese to retire from occupied areas.

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[1] This subject is treated fully and fairly by Professor W. W. Willoughby in his volume *The Sino-Japanese Controversy and the League of Nations;* another extensive account, from the point of view of the Secretary of State at the time, is that of Henry L. Stimson, *The Far Eastern Crisis.* The Report adopted by the Assembly of February 24, 1933, Part II, is a summary of the development of the case before the League. This is printed in convenient form in Hudson, Manley O., *The Verdict of the League: China and Japan* (World Peace Foundation, 1933), 22–63. For the original source material, consult the minutes of the 65th to 69th sessions of the Council, *Official Journal* of the League of Nations for 1931 and 1932, and the *Records of the Special Session of the Assembly,* I–V, *Special Supplements,* Nos. 101, 102, 111–113.

[2] See p. 80*ff*.

The hope entertained both at Geneva and in Washington that Baron Shidehara, Japan's foreign minister, might regain control of his country's foreign policy if not embarrassed by an international effort to employ a fact-finding commission of neutrals against the expressed opposition of Mr. Yoshizawa prevented a decision to appoint such a commission until December 10, 1931.[3] That decision finally was reached at the end of the third session of the Council to deal with the controversy.

Mr. Stimson has explained why the Government of the United States did not at once invoke the Pact of Paris (Kellogg Pact) and the Nine Power Treaty of Washington. It was believed that "our most useful function would be to furnish independent support to the League rather than to play a role of leadership." The issue already was before the League, "a world organization," which "had created machinery which stood ready at hand for the investigation, the conciliation, and the solution of controversies." [4] The American position regarding direct negotiations between China and Japan was stated thus: [5]

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[3] Willoughby, W. W., *op. cit.,* 67–68; Stimson, *op. cit.,* 42–44; Mr. Yoshizawa proposed the sending of a commission on November 21.

> While we should welcome a negotiated settlement between the two parties concerned, the kind of negotiations which we had in mind was quite different from one in which one of the negotiators was backing up its arguments with an armed force holding the other by the throat.

As the session of the Council continued it became clearer, from Mr. Yoshizawa's expressions of his Government's views, that the latter was seeking a settlement in Manchuria that would guarantee the security of Japanese political and economic interests there, and that withdrawal of troops was conditioned upon such a settlement. On October 15, against the single vote of the Japanese delegate, the Council invited the United States: [6]

> to be associated with our efforts by sending a representative to sit at the Council table so as to be in a position to express an opinion as to how . . . effect can best be given to the provisions of the Pact [of Paris]. By this means, also, the opportunity will be afforded him of following our deliberations on the problem as a whole.

Secretary Stimson accepted the invitation and appointed Prentiss B. Gilbert, American consul at Geneva, under the following instructions: [7]

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[4] Stimson, *op. cit.,* 40–41.

[5] *Ibid.,* 50–51.

[6] League of Nations, *Official Journal,* 1931, 2322; Department of State, *Press Releases,* October 17, 1931, 297.

[7] *Press Releases, loc. cit.,* 298.

> You are authorized to participate in the discussions of the Council when they relate to the possible application of the Kellogg-Briand Pact, to which treaty the United States is a party. . . . If you are present at the discussion of any other aspect of the Chinese-Japanese dispute, it must be only as an observer and auditor.

At the Council's suggestion the governments of States represented in the Council, other than those of China and Japan, on October 17 called the attention of the parties in controversy to their responsibilities under the Pact of Paris. Three days later the Tokyo Government made public five conditions which it would require China to accept before negotiations and evacuation of troops would be undertaken, but not until October 26 did Tokyo give the Council an official statement of such conditions. Prior to that action the Council had passed its second lengthy resolution, that of October 24, calling for evacuation by Japanese troops, arrangements by China to take back and adequately police evacuated territory, and direct negotiations, after evacuation, through a conciliation committee "or some such permanent machinery." The "five points", which had been the basis of the Japanese arguments during the debate, were afterward published in very general terms: [8]

1. Mutual repudiation of aggressive policy and conduct;
2. Respect for China's territorial integrity;
3. Complete suppression of all organized movements interfering with freedom of trade and stirring up international hatred;
4. Effective protection throughout Manchuria of all peaceful pursuits undertaken by Japanese subjects;
5. Respect for treaty rights of Japan in Manchuria.

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[8] League of Nations, *Official Journal,* 1931, 2514.

The American Government on November 5 left a memorandum at the Japanese foreign office which indicated an opinion that the withdrawal of Japanese forces should precede rather than follow negotiations upon the broad issues which Japan was emphasizing. Five days later Charles G. Dawes, ambassador at London, was instructed to go to Paris, not to attend the forthcoming meetings of the Council there, but to be available for conference. During these meetings Mr. Yoshizawa proposed the sending of a commission of neutrals to obtain objective information in China as well as in Manchuria. This proposal was acceptable to China, the other Members of the League represented on the Council and the United States. It was embodied, after two weeks of arduous negotiation among all parties concerned, in the resolution of the Council dated December 10, 1931, which provided for a commission of five members:[9]

> to study on the spot and to report to the Council on any circumstance which, affecting international relations, threatens to disturb peace between China and Japan, or the good understanding between them, upon which peace depends.

The interval between the 65th and the 66th sessions of the League Council was marked by the Japanese military occupation of Chinchow on January 3, 1932. This action was the final straw that broke the back of Secretary Stimson's patience. The note which he sent on January 7 to both parties to the dispute has become famous as having embodied a "Stimson doctrine" of non-recognition:[10]

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[9] League of Nations, *Official Journal,* 2374, 2378.

[10] Department of State, *Press Releases,* January 9, 1932, 41; Stimson, *op. cit.,* 96–97.

> . . . But in view of the present situation and of its own rights and obligations therein, the American Government deems it to be its duty to notify both the Government of the Chinese Republic and the Imperial Japanese Government that it can not admit the legality of any situation *de facto* nor does it intend to recognize any treaty or agreement entered into between those Governments, or agents thereof, which may impair the treaty rights of the United States or its citizens in China, including those which relate to the sovereignty, the independence, or the territorial and administrative integrity of the Republic of China, or to the international policy relative to China, commonly known as the open-door policy; and that it does not intend to recognize any situation, treaty, or agreement which may be brought about by means contrary to the covenants and obligations of the Pact of Paris of August 27, 1928, to which treaty both China and Japan, as well as the United States, are parties.

Secretary Stimson took this action without a general consultation with other Governments but with the hope that the example of the American Government would be imitated. He recalled the precedent set by Secretary William J. Bryan in 1915 and had discussed with President Hoover and with his staff in the Department of State "the great potentialities of the doctrine should the other nations of the world join us in establishing it."[11] However, on January 5 he informed the British and French ambassadors of his intention to send the note, read it to them, and expressed a desire that their Governments would take similar action. Mr. Stimson looked particularly to the United Kingdom "for a sympathetic understanding of the position which we had taken as well as for possible co-operation in the subsequent steps that might make more effective our policy."[12] (Whether or not such steps had been considered or discussed with the British and French ambassadors is not revealed.)

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[11] Stimson, *op. cit.,* 93.

British action, therefore, was disappointing, in fact was deemed likely "to be taken . . . as a rebuff to the United States." It took the form of a statement in the press which expressed confidence in Japanese assurances that the open door would be preserved in Manchuria. No formal note was sent to Japan or to China along the lines of the American declaration. No reference was made to Chinese sovereignty or integrity. In editorial comment the London *Times*, which often voices the Government's views, stated that "although the Nine Power Treaty provides for consultation between the interested powers, it [the foreign office] was not in fact consulted before the note was communicated to Nanking and Tokyo." The same editorial asserted:

> Nor does it seem to be the immediate business of the foreign office to defend the "administrative integrity" of China until that integrity is something more than ideal. It did not exist in 1922 and it does not exist today.

As Mr. Stimson points out, the Japanese reply to his note included a paragraph that reads like a paraphrase of the quoted statement from the *Times*. The reply further sought to justify developments in Manchuria as the efforts of the people there to effectuate a desire for independence.[13]

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[12] Stimson, *op. cit.,* 98–99.

[13] *Ibid.,* 100–106. The situation resembled that created in 1909 by the misunderstanding of Secretary Knox concerning the British attitude toward his proposal to pool national interests in the Manchurian railways.

The Issue Referred to the League Assembly

Although no government individually followed the lead of the United States, the resolution of the League Assembly on March 11, 1932 was a general international acceptance of the doctrine of non-recognition. Before that date and after the opening of the 66th session of the Council on January 25, the Lytton Commission, composed of the Earl of Lytton (British), Major-General Frank R. McCoy (American), General Henri Claudel (French), Dr. Heinrich Schnee (German) and Count Aldrovandi (Italian), began its investigations. During this period also occurred the intervention, marked by severe fighting and extensive destruction in the Chinese city, at Shanghai.

Dr. W. W. Yen, who had replaced Dr. Sze as Chinese representative in the 66th session of the Council, asked on February 12 that the Manchurian case be referred to the Assembly under Article 15 of the League Covenant, with the understanding that it remained concurrently subject to the consideration of the Council under Articles 10 and 11.[14] By this move China called for a report calculated to settle the controversy. Assembly consideration began on March 3, 1932, and thereafter all significant discussions took place in the Assembly. Dr. Yen continued his predecessor's line of reasoning, demanding the withdrawal of Japanese forces as a prerequisite to negotiations for a broad settlement of Sino-Japanese differences. Naotaké Sato, representing Japan, advanced somewhat broader grounds than his predecessor had used to maintain his Government's argument that Japanese military action was defensive, contending that since the policy of the Nanking Government was to terminate treaty rights by unilateral action Japan was unable to rely upon diplomacy in safeguarding such rights and the persons and properties of its nationals in China. The Assembly resolution of March 11 first enunciated a League non-recognition policy.

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[14] League of Nations, *Official Journal,* 1932, 386; Willoughby, *op. cit.,* 218–234, 257–258.

While the lengthy speeches of Assembly delegates, all sympathetic toward China, were being delivered, the fighting was brought to the attention of the Council and the Assembly. A consular committee at Shanghai was seeking earnestly to mediate and this body sent reports from time to time to the League Council. Through the Council's support of local efforts a conference was arranged at Shanghai between representatives of China, Japan, and other interested states. This group did not convene until March 24, after hostilities were over, but it then became the agency through which an armistice and a formal agreement of settlement were reached. The latter, signed on May 5, 1932, had as its most significant article a provision that the Chinese forces, then some 25 miles distant from the International Settlement, "will remain in their present positions pending later arrangements upon the re-establishment of normal conditions in the areas dealt with by this Agreement." It provided further for Japanese withdrawal from areas under Chinese jurisdiction and for a joint commission of the parties and of other nationalities to collaborate in the restoration of the Chinese police in those areas. Especially noteworthy, in view of the renewal of hostilities in 1937, was the accompanying Chinese declaration that "nothing in the Agreement should be held to imply any permanent restriction on the movement of Chinese troops in Chinese territory." [15]

[15] Willoughby, *op. cit.,* 357–359; Stimson, *op. cit.,* 127 (map).

SECRETARY STIMSON'S LETTER TO SENATOR BORAH

Secretary Stimson's non-recognition doctrine had failed to influence Japanese policy. The extension of hostilities to China's greatest port involved new and greater danger to foreign lives and interests. The use of bombing planes over densely inhabited portions of the Chinese city, whether justifiable or not on military grounds, aroused public sentiment throughout the world and provoked strong criticism of Japan. Mr. Stimson took this occasion to supplement the note of January 7 with a letter to Senator Borah, chairman of the Senate Committee on Foreign Relations, stating the views of his Government on the Nine Power Treaty of Washington in its relation to existing facts.

The Secretary of State has explained that he at first contemplated a joint invocation of the treaty with the other signatories. The moral pressure of this action was foremost in his mind but there was also a possibility that it might lead to economic sanctions. This idea, first mooted on February 9, 1932, had to be abandoned when Secretary for Foreign Affairs Sir John Simon proved unwilling to co-operate, though "no explicit refusal . . . was ever made."[16]

The letter to Senator Borah, dated February 23, 1932, explained why Secretary Hay had enunciated the open door doctrine in 1899 and outlined the succeeding developments up to the Washington Conference. It quoted the undertakings in the first article of the treaty, terming it "a covenant of self-denial among the signatory powers in deliberate renunciation of any policy of aggression. . . ." A new point was made concerning the interrelation of the several treaties of the Washington Conference:

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[16] Department of State, Far Eastern Series No. 1, Pub. No. 296; Stimson, *op. cit.,* 158–165. A reply to the quoted statement by Mr. Stimson was made in the House of Commons on November 5, 1936, by Neville Chamberlain. He said that the British Government "stated definitely [to Mr. Atherton, American *chargé d'affaires* in London, on February 16, 1932], that [it] was most anxious to co-operate with America and it had been hoped that the signatories of the nine power treaty would also associate themselves with the American démarche. Subsequent to that Stimson himself abandoned the proposal to appeal to the signatories of the nine power treaty" (*New York Times,* November 6, 1936).

> It must be remembered also that this treaty was one of several treaties and agreements entered into at the Washington Conference . . . all of which were interrelated and interdependent. . . . One cannot discuss the possibility of modifying or abrogating those provisions of the Nine Power Treaty without considering at the same time the other promises upon which they were really dependent.

Mr. Stimson went on to relate the Pact of Paris to the Nine Power Treaty, both being "steps taken for the purpose of aligning the conscience and public opinion of the world in favor of a system of orderly development by the law of nations. . . ." He concurred with earlier American statesmen in resting policy "upon an abiding faith in the future of the people of China" and, without inquiring into causes or apportioning blame, declared that:[17]

> . . . regardless of cause or responsibility, it is clear beyond peradventure that a situation has developed which cannot, under any circumstances be reconciled with the obligations of the covenants of these two treaties [the Nine Power Treaty and the Pact of Paris]

This letter was intended, in part, as encouragement to the League Assembly to take some definite stand.

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[17] Stimson, *op. cit.,* 165–175.

Whatever its contribution, the end desired was realized. The British representatives on March 7, 1932 introduced a resolution into the Assembly closely resembling the Stimson note of January 7, and on March 11 the resolution was passed unanimously, China and Japan not voting. It declared that:

> . . . it is incumbent upon the Members of the League of Nations not to recognize any situation, treaty or agreement which may be brought about by means contrary to the Covenant of the League of Nations or to the Pact of Paris.

Provision was made by the resolution for a Committee of Nineteen to assist the Assembly in executing its obligations under Article 15 by observing developments, endeavoring to find a basis of settlement, preparing a report, if need arose, for Assembly consideration, and in other ways seeking to find means of effecting conciliation.[18] The American Government expressed gratification "that the nations of the world are united on a policy not to recognize the validity of results attained in violation of the treaties in question." [19]

THE LYTTON COMMISSION'S REPORT

The Lytton Commission and its staff conducted inquiries in Japan, China proper and Manchuria during the period February 29 to July 20, 1932.[20] Its report, written in Peiping, was first considered in the 68th session of the Council on November 21, and by the Assembly on November 28.[21] The fact that Japan had recognized Manchoukuo seriously diminished the probability of a settlement on the basis of the painstaking work of the Commission of Inquiry; nevertheless an attempt was made. When it failed, the Committee of Nineteen turned to the preparation of a report embodying recommendations. This was adopted unanimously—Siam abstaining and the negative vote of Japan not affecting the count—on February 24, 1933.

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[18] Willoughby, *op. cit.,* 299–301.

[19] *Ibid.,* 304.

[20] Lytton Report, 10–12.

[21] The Report was published on October 1, 1932; Official No. C. 663. M. 320. 1932. VII; it was reproduced photographically as Publication No. 378, Department of State, Government Printing Office, Washington, D.C.

The report embodied the first eight chapters of the Lytton Report as a statement of facts. These gave historical background, an analysis of the important issues and interests involved, and an account of events in Manchuria and at Shanghai. They were supplemented with later factual data gathered by the League Secretariat. Thereafter followed a summary of the case before the League, a statement of the character of the dispute, and the recommendations for a settlement derived from the ninth and tenth chapters of the Lytton Report. It is now generally conceded that the latter distinctly supported the Chinese cause while recognizing that Japan had grievances deserving of redress. The Lytton Commission rejected the Japanese thesis that Manchoukuo was the product of Manchurian nationalism, viewing it rather as a creation of the Japanese army. The interests of Japan, however, were entitled to special consideration:

> It is as necessary . . . for China to satisfy the economic interests of Japan in this territory as for Japan to recognize the unalterably Chinese character of its population.

Without directly stating that Japan had violated the Covenant, the Pact of Paris, or the Nine Power Treaty, the Assembly made references to the obligations of all three agreements which carry the plain inference of violation. While denying that Japanese military movements could "be regarded as measures of self-defense," it declared that "the adoption of measures of self-defense does not exempt a state from complying with the provisions of Article 12 of the Covenant." The recommendations of the Assembly for a settlement are prefaced by quoted passages from the above-named instruments, which the settlement of the dispute should observe.

The core of the recommendations of the Assembly report of February 24, 1933 reads as follows:

> The Assembly recommends the establishment in Manchuria, within a reasonable period, of an organization under the sovereignty of, and compatible with the administrative integrity of China. This organization should provide a wide measure of autonomy, should be in harmony with local conditions and should take account of the multilateral treaties in force, the particular rights and interests of Japan, the rights and interests of third states, and, in general, the principles and conditions reproduced in Section I (c) above [containing 10 principles and conditions laid down by the Lytton Commission]; the determination of the respective powers of and relations between the Chinese Central Government and the local authorities should be made the subject of a declaration by the Chinese Government having the force of an international undertaking.

The engagement of the Members of the League regarding non-recognition of Manchoukuo was a part of the report:

> . . . the Members of the League intend to abstain, particularly as regards the existing regime in Manchuria, from any act which might prejudice or delay the carrying

out of the recommendations of the said report. They will continue not to recognize this regime either *de facto* or *de jure.*

As the Japanese Government rejected the report there was no need for the committee of 12—or of 14 in the event of participation by the United States and Soviet Russia—authorized by it to aid in negotiations between the opposing parties for a settlement under the terms of the report. By resolution of February 24, 1933, under Article 3 of the Covenant, which provides that "the Assembly may deal at its meetings with any matter within the sphere of action of the League or affecting the peace of the world," an Advisory Committee was created to follow subsequent developments. The American Government, which had endorsed the Assembly report on February 26, accepted an invitation to be represented on the Committee, which thereafter had 22 members. The American Government stipulated that its representative should participate, but without the right to vote.

On March 27, 1933 the Japanese Government announced its intention to withdraw from the League. The withdrawal occurred two years later. To the last appearance of its delegates at Geneva, Japan maintained its thesis of having acted in self-defense and in the interest of peace. It regarded the Lytton Report as prejudiced and ill-calculated to maintain peace. In his concluding remarks the Japanese delegate, Yosuke Matsuoka, stated that "the Japanese Government is obliged to feel that it has now reached the limit of its endeavors to co-operate with the League of Nations in regard to Sino-Japanese differences."

The Assembly of the League did not discuss the possibilities of applying sanctions under Article 16 of the Covenant nor did it return to the controversy until October 1937; to the Advisory Committee was left the difficult task of suggesting methods of implementing the engagement of non-recognition laid down in the final report of the Assembly. The Committee on June 14, 1933 made several recommendations regarding appropriate action to prevent Manchoukuo from acceding to international conventions. Among such conventions is that establishing the Universal Postal Union. However, the postal administrations of League States were regarded as entitled to enter into temporary arrangements for exchange and transport of mails, and such arrangements were made. While declaring that Manchoukuo passports could not properly be recognized, the Committee thought that consuls in Manchoukuo might issue identity certificates or *laissez-passers* to its inhabitants. As to consuls themselves, since their appointment does not imply recognition, it was considered permissible to dispatch them to Manchoukuo. In this connection it may be noted that Manchoukuo, like China, did not follow the general practice of granting *exequaturs* to foreign consuls.[22]

Manchoukuo sought in vain to obtain acknowledgment of its existence by directing communications to or at the League. While these statements were in general similar to the Japanese arguments in the Council and Assembly, there was one that has an interest of its own. A paragraph in the statement of February 18, 1933 asserts that: [23]

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[22] Willoughby, *op. cit.,* 522–527; 533. It is apparent that for practical purposes the maintenance of consuls had the effect of *de facto* recognition.

[23] Manchoukuo Government, Publications of the Department of Foreign Affairs, *Manchoukuo and the League of Nations,* 9.

If the League upholds world peace as its great ideal, it is then only proper that it should order the immediate abolition of the existing system of tariff walls, restrictions upon the entry and departure of foreigners, and the discriminatory treatment accorded aliens, which constitute the causes of international disputes. Freedom of communication and trade throughout the world, as well as the principle of racial equality, should thus be secured. Notwithstanding this, the League is permitting the various nations to pay mere lip-service to the cause of peace and in reality accumulate the root causes of international discord by raising national barriers and by indulging in policies which are exclusive, self-interested and racially prejudiced.

Japan Charged with Violation of Treaties

In October 1937 the Advisory Committee gave consideration to the state of warfare in China since the outbreak at Lukouchiao on July 7–8. In the "First Report," dated October 5, of a subcommittee, which was adopted by the Committee, a statement of findings concluded with a clear declaration that Japan had broken the Nine Power Treaty and the Pact of Paris: [24]

> After examination of the facts laid before it, the Committee is bound to take the view that the military operations carried on by Japan against China by land, sea and air are out of all proportions to the incident that occasioned the conflict; that such action cannot possibly facilitate or promote the friendly co-operation between the two nations that Japanese statesmen have affirmed to be the aim of their policy; that it can be justified neither on the basis of existing legal instruments nor on that of the right of self-defense, and that it is in contravention of

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[24] Sino-Japanese Conflict, *Appeal by the Chinese Government,* 42 (League of Nations, *Official Journal,* Spec. Sup. No. 177).

Japan's obligations under the Nine Power Treaty of February 6, 1922, and under the Pact of Paris of August 27, 1928.

The Assembly of the League in a resolution of October 6, 1937 adopted "as its own" the report of the Advisory Committee.[25] On the same day Secretary of State Hull issued at Washington a statement in which he briefly redefined the "principles which in the opinion of the Government of the United States should govern international relationships." His conclusions [26] were "in general accord with those of the Assembly of the League of Nations":

> In the light of the unfolding developments in the Far East the Government of the United States has been forced to the conclusion that the action of Japan in China is inconsistent with the principles which should govern the relationships between nations and is contrary to the provisions of the Nine Power Treaty of February 6, 1922 . . . and to those of the Kellogg-Briand Pact of August 27, 1928.

The Advisory Committee on October 5, 1937 in a "Second Report" on the situation in China, which was directed toward bringing about "a speedy restoration of peace in the Far East," said: [27]

> The subcommittee is convinced even at this stage of the conflict that before examining other possibilities further efforts must be made to secure restoration of peace by agreement.

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[25] Sino-Japanese Conflict, *Appeal by the Chinese Government,* 35 (League of Nations, *Official Journal,* Spec. Sup. No. 177).

[26] Department of State, *Press Releases,* XVII, 284; *New York Times,* October 7, 1937.

[27] Sino-Japanese Conflict, *Appeal by the Chinese Government,* 43 (League of Nations, *Official Journal,* Spec. Sup. No. 177).

In order to associate the United States with these "further efforts" the committee recalled that under the Nine Power Treaty the contracting States other than China agreed to respect the sovereignty, independence and administrative integrity of China, and suggested that the Assembly should "invite those members of the League who are parties to the Nine Power Treaty to initiate such consultation. . . ." It expressed the hope "that the states concerned will be able to associate with their work other States which have special interests in the Far East." The "Second Report," which the Assembly adopted on October 6, 1937,[28] concluded thus:

> Pending the results of the action proposed the Committee invites the Assembly to express its moral support for China and to recommend that League Members should refrain from taking any action which might have the effect of weakening China's power of resistance and thus increasing her difficulties in the present conflict and should also consider how far they can individually extend aid to China.

There followed the Brussels Conference, November 3–24, 1937. The President of the Assembly invited the 17 parties to the Nine Power Treaty, who were members of the League, to consult together. The Government of Belgium invited the delegates to meet at Brussels. The United States and Italy accepted invitations but Japan and Germany declined, Japan reaffirming its former stand that its "action is a measure of self-defense . . . and obviously there can be no question of violation of the Nine Power Treaty."[29] The conference had no function beyond consultation, but it would be a mistake to regard the report which it issued upon suspension of its sittings, *sine die*, as of no consequence. The most significant paragraph of the report was that which declared the Nine Power Treaty to be still in force:[30]

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[28] Sino-Japanese Conflict, *Appeal by the Chinese Government,* 35 (League of Nations, *Official Journal,* Spec. Sup. No. 177).

[29] Department of State, *Press Releases,* XVII, 310; *New York Times,* October 28, 1937.

> Those members of the Conference . . . that are parties to the Nine Power Treaty have expressly adopted a policy designed to stabilize conditions in the Far East and to that end are bound by the provisions of that treaty. . . .

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[30] *New York Times,* November 25, 1937.

X. TREATY RIGHTS IN CHINA: TARIFFS AND CUSTOMS ADMINISTRATION

The international position of China had improved during the third decade of the present century. The improvement was due in part to China's assertive program of equalitarianism in treaty relations, in part to an attitude of compromise in London and Washington. Although more recent developments have altered the significance of the changes that are reviewed in Chapters X–XIII, some attention to them is essential to a faithful record and to an understanding of Occidental reactions to Japan's program of expansion.

The most important of China's treaties were those of Nanking, 1842,[1] and its supplementary agreements, made with Great Britain, which opened five Chinese cities to foreign residence—leading to the establishment in each of these cities except Ningpo of semi-independent, foreign-administered municipal areas—and placed limitations upon the customs duties which China might levy upon foreign goods; Wanghia, 1844,[2] with the United States, which made provision for the rights of extraterritoriality; Tientsin and Peking, 1858 and 1860,[3] with France, Great Britain, Russia and the United States, which opened additional cities, gave exceptional rights to Christian missionaries, and strengthened and extended the privileges previously granted; and the protocol of 1901,[4] at the close of the Boxer uprising, which empowered the 11 signatory states to fortify the Legation Quarter in Peking and to guard by troops the route from Peking to the sea. By the most-favored-nation clause a grant made to the nationals of any one state was legally extended to those of every other state which had a treaty with China containing this clause. There was thus developed in China a system of rights which was enjoyed by the nationals of most foreign countries. In addition, a number of States, France, Germany, Great Britain, Japan and Russia, obtained by cession or long-term lease valuable areas in China and important railroad and other economic concessions.

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[1] China, Maritime Customs, *Treaties, Conventions, etc.*, 351.

[2] Malloy, William M., *Treaties, Conventions, etc.*, 202; for excerpts from the treaty, see Hornbeck, Stanley K., *China To-day: Political,* 494.

[3] China, Maritime Customs, *Treaties, Conventions, etc.*, 85, 101, 404, 430, 713, 814, 885; for excerpts, see Hornbeck, *op. cit.*, 496.

TARIFF AUTONOMY

It was in freeing itself from the foreign control of its tariff rates, that is, in winning tariff autonomy, that China was most successful. To obtain an increase in customs duties and, if possible, complete freedom from foreign control, had been one of the foremost aims of China for some 30 years. The problem was difficult because of the necessity of obtaining the consent of all treaty-states, and was complicated by the existence of transit duties and likin,[5] levied upon foreign goods in the interior, which the powers wished to abolish.

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[4] MacMurray, *op. cit.*, I, 278.

[5] "*'Likin'* was, in its original and strict meaning, a charge levied on goods in transit, calculated on the value of the goods, at the rate of one or more thousandths. But in a broad sense and in popular usage the term 'likin' is *now* employed to designate collectively a broad category of taxes levied in various amounts and under a variety of names upon internal trade" (Hornbeck, *op. cit.*, 460).

The Special Tariff Conference authorized by the parties to the Washington Conference (1921–22), and attended by 13 States,[6] which met in Peking in October 1925 and remained in session until July 1926, was of much importance in the history of the tariff controversy. The delegates agreed by resolution upon two significant articles to be included in the treaty which they expected to draw up and sign: first, the powers other than China agreed to China's tariff autonomy by January 1, 1929; and, second, China agreed to abolish likin by that same date. Although these articles had no technical validity since no treaty was signed, the Chinese leaders regarded this resolution as morally committing the foreign states to tariff autonomy by the date specified, and some at least of their diplomats held much the same point of view.[7]

Under these circumstances, the British Government communicated a memorandum, December 18, 1926, to the representatives of the Washington treaty-states proposing that these Governments should issue a statement [8]

> declaring their readiness to negotiate on treaty revision and all other outstanding questions as soon as the Chinese themselves have constituted a Government . . . should

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[6] The nine Washington Conference States, Belgium, the British Empire, China, France, Italy, Japan, the Netherlands, Portugal and the United States; and four states which had adhered to the Nine-Power Treaty, Denmark, Norway, Spain and Sweden.

[7] For the proceedings see *The Special Conference on the Chinese Customs Tariff* (Peking, 1928); *China Year Book,* 1926, Chap. XXIX.

[8] Excerpts from Secs. 6, 7 and 13 of the statement, *Chinese Social and Political Science Review,* Public Documents Supplement, XI, 99–103; Toynbee, *op. cit.,* 1926, 489–492; *China Year Book,* 1928, 757–759. The statement was reiterated in a letter of February 8, 1927, which was circulated to Member States of the League of Nations by request of the British Government, and published in the League of Nations, *Official Journal,* 1927, 293.

> declare their readiness to recognize her right to the enjoyment of tariff autonomy as soon as she herself has settled and promulgated a new national tariff . . . [and, without waiting for treaty revision,] should now authorize immediate levy of the Washington surtaxes unconditionally throughout China.

Evidently as a result of this British proposal, the United States through its Secretary of State, Mr. Kellogg, issued a statement regarding American policy in China, January 27, 1927, which said in part:[9]

> The United States is now and has been, ever since the negotiation of the Washington treaty, prepared to enter into negotiations with any Government of China, or delegates who can represent or speak for China, not only for the putting into force of the surtaxes of the Washington treaty, but entirely releasing tariff control and restoring complete tariff autonomy in China. . . . The Government of the United States was ready then [at the time of the adjournment of the Peking conference] and is ready now to continue the negotiations on the entire subject of the tariff and extraterritoriality or to take up negotiations on behalf of the United States alone. The only question is with whom it shall negotiate. . . . However, existing treaties which were ratified by the Senate of the United States can not be abrogated by the President but must be superseded by new treaties negotiated with somebody representing China and subsequently ratified by the Senate of the United States.

The United States by this statement refused to grant China either the Washington surtaxes or tariff autonomy without the negotiation of a definite treaty. The Japanese Government was also unwilling to accept the British proposal. Baron Shidehara, the Japanese minister for foreign affairs, stated in a speech before the Imperial Diet, January 16, 1927:[10]

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[9] Hornbeck, *op. cit.*, 550; *Current History*, March, 1927, 903.

> We have no objection to the levying of the surtaxes as provided for in the Washington customs treaty. But we must make it reasonably certain that such additional customs revenue shall not be applied, directly or indirectly, to purposes of civil war, or that it shall not be appropriated for the private use of a faction or factions.

The United States was the first of the treaty-states to grant in principle to China complete tariff autonomy. A treaty signed July 25, 1928 by John Van Antwerp MacMurray, American minister to China, and T. V. Soong, minister of finance of the Nationalist Government, stated:[11]

> All provisions which appear in treaties hitherto concluded and in force between the United States of America and China relating to rates of duty on imports and exports of merchandise, drawbacks, transit dues and tonnage dues in China shall be annulled and become inoperative, and the principle of complete national tariff autonomy shall apply, subject, however, to the condition that each of the high contracting parties shall enjoy in the territories of the other with respect to the above specified and any related matters treatment in no way discriminatory as compared with the treatment accorded to any other country.
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> The nationals of neither of the high contracting parties shall be compelled under any pretext whatever to pay within the territories of the other party any duties, internal

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[10] Toynbee, *op. cit.,* 1926, 507.

[11] United States, *Treaty Series,* No. 773; *American Journal of International Law,* Official Documents, XXII (1928), 170–171. Ratifications were exchanged at Washington, February 20, 1929, but by the terms of the treaty its provisions did not become effective until four months later—long after the Chinese national tariff had been put into operation.

charges or taxes upon their importations and exportations other or higher than those paid by nationals of the country or by nationals of any other country.

During the following November and December all but one of the other States claiming control over China's tariff signed treaties granting tariff autonomy. In order of signature they were Norway, Belgium, Italy, Denmark, Portugal, the Netherlands, the British Empire, Sweden, France and Spain.[12] Some of these treaties followed closely the wording of the American treaty, and limited their provisions to the subject of the tariff. Other included additional matters, particularly extraterritoriality.[13]

At the beginning of 1929, therefore, all the powers represented at the Peking conference of 1925, with the single exception of Japan, had by treaty relinquished their control over China's customs duties, subject to the pledge that there should be no discrimination in tariff matters. The other states which had formerly shared in tariff control, Austria-Hungary, Germany[14] and

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[12] For texts see *Chinese Social and Political Science Review,* Public Documents Supplement, XIII (January 1929), 7–51.

[13] These treaties comprise two classes: first, those with five States (Belgium, Denmark, Italy, Portugal and Spain) whose former treaties had, in the view of the Chinese Government, already expired. These are designated as preliminary treaties of amity and commerce, and deal with both tariff and extraterritoriality. Second, those with six States (British Empire, France, Netherlands, Norway, Sweden and United States) whose commercial treaties are admittedly in force. These new treaties are therefore limited solely to the tariff.

[14] Germany and China agree by Art. 4 of their treaty of May 20, 1921 and Art. 1 of their treaty of August 17, 1928 that each state shall regulate its own customs, but that neither shall be subject to any discriminatory treatment. League of Nations, 9 *Treaty Series,* 285; *Chinese Social and Political Science Review,* Public Documents Supplement, XII (October, 1928), 71. An equivalent provision is in Art. VIII of the treaty with Austria of October 19, 1925, League of Nations, 55 *Treaty Series,* 22.

Russia, had already lost their rights in consequence of the Great War and the Russian Revolution and the treaties made with China shortly thereafter. In the meantime, the Chinese Government had come to the important decision that upon February 1, 1929 it would put into effect a new national tariff with much higher duties and on December 6, 1928 Foreign Minister C. T. Wang sent notes to the states having tariff treaties with China inclosing copies of the new schedules.[15]

Japan believed that it would suffer more than any other country by an increase in the Chinese tariff. It has come to export low-priced goods to China upon a large scale, especially cheap-grade cotton cloth, which would be seriously affected by an appreciable increase in customs duties. In consequence of this conviction, Japan had proposed at the Peking conference that before tariff autonomy should go into effect, its Government should be given the opportunity to negotiate a special treaty with China which would, for a term of years, maintain a reasonably low rate upon those exports from Japan which would suffer most severely by a marked increase in duties.[16] However, on January 30, 1929, two days before China was to put its national tariff into force, Japan gave its consent to China's new tariff for the period of one year. On February 1, 1929, therefore, China's new national tariff went into effect.[17] In Nanking the day was proclaimed a holiday, and in that city and in Shanghai there were displays of flags and parades and demonstrations.

This new tariff autonomy, however, was subject to certain temporary limitations, the most important of which was that the recently established tariff duties were not to be increased for at least a year. This restriction is found in Annex III of the Sino-British treaty.[18] While the American treaty and most of the other recent tariff treaties granted to China complete and unrestricted tariff autonomy, this pledge to Great Britain, by virtue of the treaty provisions against discrimination and the most-favored-nation clause, became also a pledge to the other treaty-states.

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[15] *Week in China,* December 8, 1928, XII, 15.

[16] *China Year Book,* 1926, 1128.

[17] *Week in China,* February 2, 1929, XII, 98–99.

The new national tariff, put into force February 1, 1929, was substantially the same as the one provisionally adopted at the Peking tariff conference in 1926 as an ad interim measure to be effective until complete tariff autonomy should go into effect January 1, 1929.[19] The rates were moderate. Some items were on the free list: cereals and flour, books and periodicals. The duties on imports varied from 7½% to 27½% ad valorem, with a 32½% excise upon cigars and cigarettes.

Not until May 6, 1930 did Japan accept the new situation by a formal agreement which took effect May 16. However, in an annex to the agreement an exchange of notes provided that for 3 years each country would maintain the existing import duties upon specified articles imported from the other as maximum rates; also China agreed that for one year she would maintain existing duties as the maximum to be levied upon certain other specified articles imported from Japan.[20] In this exchange of concessions Japan was considerably the gainer. The agreement was not renewed and China actually realized complete tariff autonomy on May 15, 1933.

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[18] Great Britain, *Treaty Series,* No. 10 (1929), Cmd. 3319.

[19] *Ibid.,* 7.

[20] *Chinese Social and Political Science Review,* Public Documents Supplement, XIV (July 1930), 11–16.

Likin, it is to be noted, was not abolished February 1, nor was its abolition made a condition of complete tariff autonomy. China merely gave an assurance, to be found in the annex to the British treaty, that it was the Government's "intention that goods having once paid import duty to the maritime customs in accordance with the rates imposed in the new or any subsequent national tariff will be freed as soon as possible from any levies of the nature specified"; that is, from "likin, native customs dues, coast trade duties and all other taxes on imported goods whether levied in transit or on arrival at destination."[21] However, a mandate of February 1930 abolished likin as from October 10, 1930. This date subsequently was altered to January 1, 1931. The estimated revenue loss of $80,000,000 a year was to be made up by new excise taxes.[22]

A complication was present in regard to the long-established preferential duties levied on the land frontiers of China. In Annex IV of the British treaty, the Chinese Government declared that

> it is their intention to apply the new customs tariff uniformly on all land and sea frontiers of China, and that, as from the date of coming into force of the new tariff, the preferential rates at present levied on goods imported or exported by land frontier will accordingly be abolished.

The British Government stated that it was in full agreement with this declaration.[23] The Soviet Union renounced in principle its right to reduced frontier duties by the agreement of 1924, and France gave up its rights by the tariff treaty of December 22, 1928.[24] Japan surrendered its rights on the Manchurian-Korean border in an exchange of notes of May 6, 1930. These rights were specified in an agreement of 1913,[25] and provided that dutiable goods between Manchuria and Chosen by rail via Antung pay only two-thirds of the regular maritime customs duties. After the Chinese Government had done away with the preferential frontier duty enjoyed by Russia, it announced that the one-third preference at Antung would be abolished on March 1, 1929. The Japanese vigorously objected to this action; Consul-General Hayashi officially protested on the ground that Japan's acceptance for a year of China's new tariff rates did not render obsolete existing treaties and agreements, and that the abrogation of the one-third preference at Antung was in violation of the Sino-Japanese agreement of May 29, 1913. A local Japanese paper even stated that "the Japanese are to resist the enforcement of the above change by force." As a result, this preference was temporarily allowed to remain.[26] By an annex to the agreement of May 6 it was abolished as of September 16, 1930.[27]

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[21] Great Britain, *Treaty Series,* No. 10 (1929), Cmd. 3319, Annex III.

[22] *Chinese Year Book,* 1935–36, 1273–1275.

[23] Great Britain, *Treaty Series,* No. 10 (1929), Cmd. 3319, Annex IV.

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[24] The Chinese Government at Peking, August 6, 1926, and the National Government in July 1928, notified the French minister of the termination of the Sino-French convention of April 25, 1886, the additional convention of June 26, 1887, and the convention supplementary to this convention, dated June 20, 1895, all of which dealt with frontier trade between China and France, and which provided for tariff reductions on exports and imports at the Indo-Chinese land frontier. With the signing of the Sino-French tariff treaty, December 22, 1928, it was agreed by an exchange of notes that negotiations should begin shortly for a new convention relating to Indo-China, and that during the continuance of the negotiations, if not protracted, the existing reductions in the tariff at the land frontier should be continued. But the Chinese minister for foreign affairs, Dr. C. T. Wang, stated that in any case the reductions in the tariff would cease to be applied beginning from March 31, 1929. By a convention of May 16, 1930, the three above-named conventions as well as Articles 4, 5 and 6 of the treaty of Tientsin of June 9, 1885, were abrogated. China, Maritime Customs, *Treaties, Conventions, etc.* 2nd ed., I, 913, 925, 937; *China Weekly Review,* January 12, 1929, XII, 276–277; *Chinese Social and Political Science Review,* Public Documents Supplement, XIV (July, 1930), 20–35.

[25] MacMurray, *op. cit.,* II, 1039–1041.

The Chinese Maritime Customs Service

The Chinese Maritime Customs Service, which traces its beginning as far back as 1854, is a Chinese Government organization headed by a British subject who until recently has had unlimited authority in this field. In February 1927, Sir Francis Aglen, an Englishman who was then inspector-general, was dismissed from his position by the Chinese Government in Peking—although he was gazetted as on leave for one year—because he would not collect surtaxes which were contrary to treaties. Against this action the diplomatic corps formally protested.[28] A. H. F. Edwardes, another Englishman, was then appointed inspector-general; he was forced out by the new National Government, which appointed Frederick W. Maze to the post in January 1929.[29]

The desire has been expressed by many Chinese that their Government should take over the administration of the customs service and displace the foreigners. The question, therefore, naturally arises whether China is legally bound to maintain the present maritime customs service. In 1898 the Chinese Government promised the British Government that it would appoint an Englishman as inspector-general as long as the trade of Great Britain with China should be greater than that of any other country. "But," the Chinese note stated, "if at some future time the trade of some other country at the various Chinese ports should become greater than that of Great Britain, China will then, of course, not be bound to necessarily employ an Englishman as inspector-general."[30] Since the trade of Great Britain was exceeded by that of Japan from the Great War to 1932, and after 1932 by that of the United States, China is clearly under no further obligation on account of this promise.

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[26] *Manchuria Daily News,* Monthly Supplement, March 1, 1929, 3.

[27] *Chinese Social and Political Science Review,* Public Documents Supplement, XIV (July, 1930), 17.

[28] *China Year Book,* 1928, 1076–1077.

[29] *Chinese Year Book,* 1935–36, 1262, 1264.

There are, however, two financial agreements made by the Chinese Government with British and German banks in 1896 and 1898 in which, as conditions of the loan, the Chinese Government promised to continue "the administration of the Chinese Imperial Maritime Customs Service as at present constituted through the continuance of the loan." Both of these loans are outstanding, and the longer-termed one can not be retired by the Chinese Government before 1943.[31]

The Chinese Government is, therefore, committed to maintain the customs service with foreigners at its head for some five years longer. But the trend toward Chinese control was indicated not only by the substitution of Mr. (now Sir Frederick) Maze for Mr. Edwardes as inspector-general, but by orders of the Ministry of Finance which made the inspector-general responsible to the customs administration department of the ministry, restricted the further appointment of foreigners and opened the position of Commissioner of Customs to Chinese members of the staff. A number of Chinese were appointed to these important posts.[32]

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[30] MacMurray, *op. cit.,* I, 105–106.

[31] *Ibid.,* I, 55, 107.

[32] *Chinese Year Book,* 1935–36, 1263–1264.

XI. TREATY RIGHTS IN CHINA: EXTRATERRITORIALITY

By treaty the nationals of 15 States, including France, Great Britain, Japan and the United States, are in China free from all jurisdiction of Chinese courts, being subject only to the control of their own consuls or their own national courts established in China, and being tried under their own national laws. This system of extraterritoriality was established by the supplementary treaty of 1843, following the treaty of Nanking of 1842 with Great Britain. The provisions were made more definite in the American treaty of Wanghia, 1844, and were elaborated and defined in various subsequent treaties. These privileges were then automatically extended to all states enjoying most-favored-nation treatment. It is these States with extraterritorial rights which are known as "treaty-powers."[1]

The Chinese Government has made earnest efforts, especially from 1903, to rid the country of alien jurisdiction and to this end to bring its laws and legal system into greater harmony with western standards. The Washington Conference provided for the appointment of a commission on extraterritoriality, to visit China and "to inquire into the present practice of extraterritorial jurisdiction in China, and into the laws and the judicial system and the methods of judicial administration of China."[2] The main point of the report drawn up by the commission, which met in 1926 at Peking, was that conditions in China did not warrant the immediate abolition of extraterritoriality. The commission, however, made clear the outstanding defects of the existing system and spoke well of the progress already made by China in revising its judicial system. But it pointed out that much still remained to be done and indicated steps which were needed to bring the Chinese judicial system to a proper standard.

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[1] The list includes Belgium, Brazil, the British Empire, Denmark, France, Italy, Japan, the Netherlands, Norway, Peru, Portugal, Spain, Sweden, Switzerland and the United States.

The commission recommended also that, pending the abolition of extraterritoriality, the powers "should make certain modifications in the existing systems and practice of extraterritoriality." These would include, in addition to the development of necessary arrangements in regard to judicial assistance between the Chinese authorities and those of the extraterritorial states, the application of selected Chinese laws, the reorganization of the special mixed courts along Chinese lines, the correction of abuses, and the acceptance of responsibility for the payment of legal Chinese taxes by foreign residents.[3]

Since the report was published, neither China nor the others have carried out completely the recommendations of the commission; but both have taken steps in that direction. China has been revising and codifying its laws; the new criminal code was promulgated on March 10, 1928 and the new code of criminal procedure on July 28 of the same year; both codes became effective on September 1, 1928. Revised codes were promulgated on January 1, 1935 and placed in force on July 1 of that year.[4] The new civil code was issued in five books during 1929 and 1930, entering into force by installments during those years and in 1931.[5] Numerous laws regulating commerce and industry have been promulgated.[6] The volume of legislation under the National Government has been remarkable. New courts have been established and additional judges appointed. The National Government placed special emphasis upon legal education throughout the country and operated a training school for judicial officers under the judicial yuan, to which graduates of recognized law schools were admitted by examination. As Justice Wang Ch'ung-hui pointed out, the Government planned "ultimately to take the judicial power from the hands of the local magistrates and place it in the hands of those who are specially trained for performing judicial duties." [7] An appreciable beginning in this direction already had been made.[8] Serious attention also was being given to prison reform, all but three of the provinces now possessing from one to ten modern prisons.[9]

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[2] *Conference on the Limitation of Armament,* 1644.

[3] *Report of the Commission on Extraterritoriality in China,* Peking, September 16, 1926 (Washington Government Printing Office), recommendations, 107–109; for the declaration of the Chinese commissioner, see *China Year Book,* 1928, 447–456.

The outstanding action of the other States in carrying out the recommendations of the commission was the rendition of the mixed court in the International Settlement in Shanghai. This court was originally a Chinese institution for the trial of cases in which the defendants were Chinese or non-extraterritorial foreigners. A foreign assessor, or representative of one of the local consulates, was permitted to sit with the Chinese judge in cases in which an extraterritorial foreigner was plaintiff. In 1911, however, on account of the breakdown of local authority due to the revolution of that year, it seemed necessary to the Shanghai consular body to take over control of the court. The judges were still Chinese but they served under the authority of foreigners. The mixed court, therefore, functioned after 1911 without treaty sanction. For years the Chinese had demanded the return of the court to Chinese jurisdiction. Finally, on February 1, 1927 a provisional rendition was effected by an agreement,[10] made between the Shanghai consular body and the Kiangsu Provincial Government, which was to hold for three years. The court was termed the Shanghai Provisional Court, and was under control of the Kiangsu province, although deputies of the consuls might still sit with the Chinese judges in cases in which the peace and order of the International Settlement was concerned, or in which a foreigner enjoying extraterritorial rights was plaintiff or complainant. Within this 3-year period, it was stipulated that the Chinese central Government and the foreign ministers might negotiate for a final settlement.[11] Now that the court was again under Chinese authority, it was severely criticized by many of the foreigners in Shanghai on the ground that the judges were under political influence and the judicial standards were not adequately high. On the other side Chinese critics complained that the court was still under foreign control and the municipal police inclined to usurp its authority.[12] In the French Concession the regime of the mixed court was modified on January 5, 1927 to the extent that civil cases in which only Chinese or persons without extraterritorial rights were involved were placed under exclusively Chinese jurisdiction.[13]

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[4] *The Criminal Code of the Republic of China* . . . translated by Chao-Yuen C. Chang (Shanghai, Kelly & Walsh, 1935); *Code de procédure pénale de la République chinoise* . . . traduit sous la direction de P. C. Leblanc (Droit chinois moderne No. 21, Tientsin, 1935).

[5] *The Civil Code of the Republic of China* . . . translated by C. L. Hsia, J. L. E. Chow, Liu Chieh, Y. Chang (Shanghai, Kelly & Walsh, 1931); *Code de procédure de la République chinoise* . . . traduit par F. Théry (Droit chinois moderne No. 15, Tientsin, 1932).

[6] *Chinese Year Book,* 1935–36, 201–204. For data as to translations of Chinese laws, with translators and publishers, see list of M. G. Padoux in *Chinese Social and Political Science Review,* XIX (1935–36, 567–644.

[7] Address, Dr. Wang Ch'ung-hui, President of the Judicial Yuan, January 30, 1929, *Week in China,* February 16, 1929, XII, 125–130.

[8] *China Year Book,* 1936, 326–329.

[9] *Ibid.,* 329–330.

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[10] This agreement had received the previous approval of the heads of legations accredited to China.

[11] *China Year Book,* 1928, 465–475; *Report of the Commission on Extraterritoriality in China,* 16; Willoughby, *Foreign Rights and Interests in China,* I, Chap. XXI.

The National Government at Nanking, with its victory in gaining tariff autonomy practically assured, increased its efforts in the late months of 1928 to induce the States to abandon extraterritoriality. Its position was strengthened by the fact that several of the former "treaty-powers" had already lost these rights. Germany and Austria-Hungary had these privileges canceled by China when it declared war against the Central Powers in 1917. They recognized the loss by treaty: Germany by express provision of the Sino-German agreement of 1921,[14] Austria by implication by Art. 234 of the treaty of Saint-Germain, 1919, and by express provision of the Sino-Austrian treaty, October 19, 1925;[15] and

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[12] Ling, S. K., "The Shanghai Provisional Court," *Far Eastern Information Bureau Bulletin,* Nanking, I, no. 16, December 1, 1929.

[13] Escarra, Jean, *La Chine et le droit international,* 70; also *China Year Book,* 1928, 475.

[14] The exchange of notes accompanying the Sino-German agreement of May 20, 1921 contained the important assurance: "All lawsuits in China in which Germans are involved will be decided before the newly-established courts, with right to appeal. These lawsuits will be conducted in accordance with the regular procedure. German barristers and interpreters, officially accredited to the courts, may act as counsel during the proceedings." League of Nations, 9 *Treaty Series,* 288; Hornbeck, *op. cit.,* 521. A similar provision is contained in Art. IV of the Sino-Austrian treaty of October 19, 1925.

[15] League of Nations, 55 *Treaty Series,* 21 (Art. IV).

Hungary by Art. 217 of the treaty of Trianon, 1920. Russia was deprived of its extraterritorial rights in 1920 by decree of the Chinese Government; and in the Sino-Soviet agreement of May 31, 1924 pledged itself to renounce them. The nationals of Austria, Germany, Hungary and the Soviet Union are therefore subject to the jurisdiction of Chinese courts. In the same situation are the nationals of most of the Latin American republics, and of such European countries as Czechoslovakia, Estonia, Latvia, Lithuania, Poland, Rumania and Yugoslavia.[16] Two of the 15 States which are now entitled to the rights of extraterritoriality,[17] Sweden and Switzerland, promised at the signing of their treaties with China in 1908 and 1918, respectively, to relinquish these rights as soon as the other States should do so; and Mexico, in an exchange of notes with the Chinese Government, October–November 1929, agreed, in view of the expiration of its treaty of 1899 and of its desire to recognize China's "complete rights of sovereignty," that it would not demand "in the future extraterritorial privileges in that country." [18] None of these States, however, have extensive relations with China.

A further and notable success in the effort to abolish extraterritoriality was achieved by the Chinese Government toward the close of 1928 by the negotiation of treaties with five States, Belgium, Denmark, Italy, Portugal and Spain, in which, in addition to granting tariff autonomy, they renounced extraterritoriality in principle and promised to give up their extraterritorial rights when the other States should do so.[19] The terms of the five treaties are similar and the articles of the last four are practically identic. China undertook to prepare the necessary codes by 1930.

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[16] For the regulations of the Nationalist Government issued July 8, 1928 regarding the treatment of foreigners who do not now enjoy extraterritoriality, *see* appendix of the Pacific Area.

[17] For a list of these 15 states, *see* footnote p. 135.

[18] *Chinese Social and Political Science Review,* Public Documents Supplement, XIV (1930), no. 2, 19–22.

Following up the advantage gained by the negotiation of these five treaties, the Chinese minister for foreign affairs, Dr. C. T. Wang, handed identic notes, dated April 27, 1929, to the American, British and French ministers, and similar notes at the same time to the Brazilian, Dutch and Norwegian legations, in which he expressed the desire of the Chinese Government for the abolition of extraterritorial privileges as soon as possible.[20] This communication was followed by another identic note from Minister C. T. Wang, May 8, to the American, British, Dutch and French ministers and the Brazilian and Norwegian chargés d'affaires, the representatives of States having treaties which the Chinese Government accepted as still in force, asking that the Shanghai Provisional Court should be placed under the direct and undivided control of the Chinese National Government. The note stated that, notwithstanding the change effected on February 1, 1927,[21]

> the position of the new court is still anomalous and its system remains confusing, being different from that of the whole country. The inconveniences arising therefrom have caused much complaint and dissatisfaction on the part of the people.

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[19] These treaties were signed in the following order: Belgium, November 22; Italy, November 27; Denmark, December 12; Portugal, December 19; and Spain, December 27, 1928. For the text of the treaties, see *Chinese Social and Political Science Review,* Public Documents Supplement, XIII (January, 1929), 7–51.

[20] *Chinese Social and Political Science Review,* Public Documents Supplement, XIII (July 1929), 64.

[21] *Ibid.,* 66–67.

In reply to the latter Chinese communication, the dean of the diplomatic corps at Peiping, Mr. Oudendijk, sent to Minister Wang, June 7, 1929, a note on behalf of all the heads of the legations concerned, including not only the six to whom the note of May 8 was addressed, but also the diplomatic representatives of Belgium, Denmark, Italy, Japan, Portugal, Spain and Sweden. The note proposed that [22]

> the question of the reorganization of the present court should be examined on behalf of the legations concerned by a commission chosen from among their local representatives together with representatives of the Chinese Government and that the conclusions thus arrived at should in due course be submitted to the several ministers and to the National Government of China.

Minister Wang declined the proposal in an identic note of July 3 in which he stated that "the said question is not of a local character and ought not to be left to local representatives to examine and discuss." He requested the ministers of the States concerned to open negotiations immediately and directly with the Nanking ministry of foreign affairs.[23] To this request Mr. Oudendijk replied on August 2 that the ministers were willing to negotiate and requested Dr. Wang to submit concrete proposals.[24] The result was a conference at Nanking which opened on December 9, 1929. On February 17, 1930 a new agreement was signed, taking effect on April 1 of that year. Effective for three years, and renewed for three more at expiration, it was thereafter to remain operative unless denounced by either party after six months prior notice.[25] This agreement is between the Chinese Government and the Governments of Brazil, the Netherlands, Norway, France, the United Kingdom and the United States. Its ten articles display a sincere intention to meet the objections of China to the former "anomalous" and "confusion" arrangement. Most significant are the second and third articles, by which China is authorized to establish a district court (*ti fang fa yuan*), and a branch high court (*kao teng fa yuan fen yuan*) as a part of the regular judicial system. Article 2 further declares that all Chinese laws are applicable, due account being taken of the land regulations and by laws of the Settlement, "which are applicable pending their adoption and promulgation by the Chinese Government." Appeals lie to the Supreme Court of China. By Article 3 the use of foreign deputies is abolished.

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[22] *Chinese Social and Political Science Review,* Public Documents Supplement, XIII (July, 1929), 73–74.

[23] *Ibid.,* 74–75.

[24] *Ibid.,* 76–77.

Other important provisions deal with rights of arrested persons, appointment and duties of procurators (prosecuting officers), judicial processes, prisons and the rights of foreign and Chinese lawyers. An unusual method is stipulated for reconciling differences of opinion "regarding the interpretation or application" of the agreement. Four permanent representatives, two appointed by China and two by the signatory states, were authorized to perform this function upon request of the "President of the branch high court," their reports to be advisory only, "it being understood that no judgments, decisions, rulings or orders of the courts, as such, shall be referred to the aforesaid representatives for consideration."

In an exchange of notes of the same date certain reservations were agreed upon. The new courts were thereby denied jurisdiction over "mixed criminal cases arising on private foreign property outside the limits of the Settlement and mixed civil cases arising in areas surrounding the settlement." The Municipal Council of the Settlement was authorized to designate one officer of the judicial police with the function of making entries of all judicial processes for service or execution. In a declaration accompanying this exchange the foreign governments pointed out that their extraterritorial rights remained unimpaired and that they reserved "the right to object to the enforcement in the International Settlement of any future Chinese laws that affect or in any way invalidate the land regulations or bye-laws . . . or that may be considered prejudicial to the maintenance of peace and order within this area." [26]

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[25] Tyau, M. T. Z., *China's Diplomatic Relations, 1931–1932: A Survey* (China Institute of Pacific Relations), 15–17.

By an almost identical agreement the rendition of the mixed court in the French Concession took place on July 31, 1931. This agreement was renewed on April 1, 1933.[27]

The Chinese authorities were clearly hopeful of an early abolition of extraterritoriality. An indication of their optimism was seen in a set of regulations, issued on August 12, 1929, which put an end to provincial and local handling of matters of a diplomatic nature and prescribed the respective spheres of central and local authorities in relation to aliens.[28] On August 22, the foreign office announced that the office of provincial commissioner of foreign affairs would be abolished by the end of the year.[29] The United States, however, and the other leading States which still possess extraterritorial rights sent to China, August 10, 1929, official replies to Minister C. T. Wang's note of April 27, in which they declined to surrender their extraterritorial privileges completely. The American note, though written in a spirit of consideration, expressed the belief that the existing friendly relations of the United States and China to which Dr. Wang had alluded were due in large part to the earlier agreements providing for extraterritorial jurisdiction. After referring to the conditions laid down for relinquishment of the system in the report of the commission on extraterritoriality, the note very frankly pointed out that "the recommendations aforesaid have not been substantially carried out" and that not until they "are fulfilled in far greater measure than is the case today will it be possible for American citizens safely to live and do business in China and for their property to be adequately protected without the intervention of the consular courts." The note concluded with an offer to negotiate upon "a method for the gradual relinquishment of extraterritorial rights, either as to designated territorial areas, or as to particular kinds of jurisdiction, or as to both, provided that such gradual relinquishment proceeds at the same time as steps are taken and improvements are achieved by the Chinese Government in the enactment and effective enforcement of jurisprudence."[30]

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[26] *American Journal of International Law,* XXV (1931), Official Documents Supplement, 110–115; also *Chinese Social and Political Science Review,* Public Documents Supplement, XIV (1930), 29–37; the latter reference does not include the declaration.

[27] Tyau, M.T.Z., *China's Diplomatic Relations, 1931–1932: A Survey* (China Institute of Pacific Relations), 18; text of agreement in *Chinese Social and Political Science Review,* Public Documents Supplement, XV (1931), 466–474.

[28] *Chinese Social and Political Science Review,* Public Documents Supplement, XIII (1929), 79–81.

The British reply outlined the circumstances in which the system originated and referred to steps already taken by the British Government toward implementing the recommendations of the report of the commission on extraterritoriality. That Government was willing to consider further steps but urged that before extraterritoriality could be entirely abandoned the new codes of law must be understood by the Chinese people, and the courts must be free from military or other forms of interference. Like the American note, the British reply was frank:[31]

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[29] *The Week in China,* August 24, 1929, 681–682.

[30] *Chinese Social and Political Science Review,* Public Documents Supplement, XIII (1929), 158–162.

> Not until these conditions are fulfilled in a far greater measure than appears to be the case today will it be practicable for British merchants to reside, trade and own property throughout the territories of China with the same equality of freedom and safety as these privileges are accorded to Chinese merchants in Great Britain.

The other Governments sent similar sympathetic replies. On September 5 Dr. Wang continued the exchange with a note to the United States. He expressed the opinion that the extraterritorial regime was a danger rather than an assurance of security to American citizens, that conditions had greatly changed since the report of the commission on extraterritoriality, and that the Chinese judicial system might fairly be compared with that of Turkey, which now enjoyed freedom from consular jurisdiction.[32] Two days later the foreign minister dispatched an essentially identical note to France.[33] Further correspondence with the interested Governments led to an aide-mémoire of December 20 from Arthur Henderson, British foreign secretary, in which he said:[34]

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[31] *Chinese Social and Political Science Review*, Public Documents Supplement, XIII (1929), 165–166.

[32] *Ibid.*, 171–175.

[33] *Ibid.*, 157–177.

[34] *Ibid.*, XIV (1930), 22–24.

> His Majesty's Government are, therefore, willing to agree that January 1, 1930 should be treated as the date from which the process of the gradual abolition of extraterritoriality should be regarded as having commenced in principle.

Thus encouraged, the National Government on December 28, 1929 issued a mandate in which it stated that:[35]

> For the purpose of restoring her inherent jurisdictional sovereignty, it is hereby decided and declared that on and after the first day of the first month of the nineteenth year of the Republic (January 1, 1930), all foreign nationals in the territory of China who are now enjoying extraterritorial privileges shall abide by the laws, ordinances and regulations duly promulgated by the central and local governments of China. The executive *yuan* and the judicial *yuan* are hereby ordered to instruct the ministries concerned to prepare as soon as possible a plan for the execution of this mandate and to submit it to the legislative *yuan* for examination and deliberation with a view to its promulgation and enforcement.

The absence of legal provision for this sweeping change was evidenced in the mandate itself and was recognized by the foreign minister on December 30 when he stated that "the actual process of re-establishing Chinese sovereignty by the abolition of extraterritoriality begins on January 1," and that "the Chinese Government . . . is prepared to consider and discuss within a reasonable time any representations made with reference to the plan now under preparation in Nanking."[36]

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[35] *China Year Book,* 1931, 487; see further, *ibid.,* 1931–32, 263, for the regulations.

[36] *Chinese Social and Political Science Review,* Public Documents Supplement, XIV, no. 2 (1930), 2.

Secretary of State Stimson announced on January 2, 1930 that Minister Wang's statement was acceptable to the American Government as it indicated that the mandate of December 28 merely fixed a date for beginning a gradual process of relinquishment of extraterritorial rights.[37]

During 1930 the British and the Chinese Governments carried on negotiations looking toward the development of a constructive plan of relinquishment. Draft proposals were submitted by the British minister to China on September 11 and counter-proposals by Minister Wang on December 1. Concurrently talks went on at Nanking with the American, French and Japanese ministers. On May 6, 1931 Mr. Henderson stated in the House of Commons that substantial progress had been made in the Nanking conversations but that the Chinese Government appeared unwilling to agree to the British desire that certain treaty ports be excluded from the operation of the proposed new treaty "until such time as necessary changes have been effected in the municipal administrations at these ports to meet the new situation created by the abolition of extraterritorial rights." [38]

Proposals were also made by the American Government, which announced on November 13, 1930 that the proposals, broadly speaking, were "constituted in part on the principle of transfer of jurisdiction in reference to specified kinds of cases, and in part on the principle of such transfer in all but a specified area or areas." [39]

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[37] Bisson, T. A., "The United States and the Orient," *Pacific Affairs,* III, December, 1930, 1129.

[38] Heald, Stephen A., "Britain and the Pacific," *Pacific Affairs,* IV (August, 1931), 674–677.

[39] Bisson, T. A., "The United States and the Far East," *Pacific Affairs,* V, January, 1932, 67.

Japanese proposals, as outlined by the *Osaka Mainichi* on March 15, 1931, included provisions for the leasing of land and establishment of factories.[40] At the time of the interruption of negotiations in May 1931, the general terms acceptable to the United Kingdom and the United States were believed to be as follows:[41]

a. A right of appeal from Chinese to foreign courts.
b. Reservation of criminal cases for a period of years.
c. Inclusion of foreign judges on Chinese courts in cases involving foreigners.
d. Exclusion of Shanghai, Canton, Hankow and Tientsin.

Internal pressure forced the National Government's hand. With a national people's conference about to assemble, the Government issued a mandate on May 4, 1931 in which reference was made to that of December 28, 1929. The new mandate stated that the regulations therein contemplated had been prepared and concluded:

> These regulations are hereby promulgated and it is decided and declared that they shall come into force on . . . January 1, 1932.

On the same date the regulations were published. They provided for the creation of special chambers in the district courts of certain ports and in the provincial high courts for the trial of all types of cases involving foreigners. Legal counsellors of foreign or Chinese nationality, who were to be assigned to these chambers, might submit their opinions to the courts. Preliminary hearings were to follow arrest within 24 hours. Arbitration agreements would be recognized and foreign counsel permitted in arbitral proceedings. Prisons and detention houses suitable for foreigners were to be designated by the ministry of justice.[42] Although the mandate was worded as an unconditional unilateral act, the negotiations for treaties on the subject continued. Before these had reached satisfactory conclusions, however, a mandate of December 29, 1931 postponed indefinitely the date for the enforcement of the regulations on the ground that "natural disasters and other calamities in various localities" had prevented completion of the necessary preparations.[43] Since that time more urgent problems have forced the issue of extraterritoriality into the background.

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[40] *Current History,* May, 1931, 319.
[41] *China Year Book,* 1931–2, 263.

Unilateral Abrogation of Treaties

The attitude of Chinese nationalism toward treaty tariffs, foreign administration of the customs service and extraterritoriality was that, in principle, the Chinese Government was of right entitled to terminate arrangements derogatory to its independent statehood or rendered obsolete by changed conditions.[44] This theory was employed by the foreign office at Peking and subsequently by that at Nanking. It came into greatest prominence in the negotiations for revision or termination of treaties with Belgium and with Japan.

Like others of the unequal treaties these instruments contained clauses providing for revision on the initiative of Belgium and Japan. It so happened that both treaties were subject to revision in 1926. But when the Peking foreign office requested negotiations for revision, it found that the other contracting parties differed with it on the interpretation of the revisory clauses. Since the Belgian and the Japanese interpretations were such as to enable the Governments concerned to frustrate revision altogether, the Chinese gave notice of an intention to terminate the treaties and a desire to negotiate new treaties.[45] Belgium took the issue to the Permanent Court of International Justice, but before a decision had been rendered the matter was diplomatically settled by a compromise which gave China a new treaty but postponed its complete effectiveness.[46] The Japanese Government emphatically declined to recognize China's unilateral denunciation, calling it an "outrageous act" and threatening to take measures to safeguard its rights and interests.[47]

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[42] *Chinese Social and Political Science Review,* Public Documents Supplement, XV (1931), 456–458.

[43] *China Year Book,* 1931–32, 264. Sir John Simon, foreign secretary, informed the House of Commons on December 7, 1931 that a draft treaty had been completed at Nanking but did not disclose its terms, *Pacific Affairs,* V, May, 1932, 424.

[44] See views of Wang Ch'ung-hui, China's foremost jurist and judge of the Permanent Court of International Justice, in *The Week in China,* February 16, 1929, XII, 128–129.

Although the long-standing treaties with Spain, Portugal, Italy and Denmark were declared terminated by the Chinese Governments at Peking or at Nanking, during the period 1926–28, the effect of these unilateral acts was identical with that affecting the Belgian treaty. New treaties were entered into, similar to those made with the United States and other countries except for the inclusion of articles by which extraterritorial jurisdiction was to be ended when the other treaty states should agree to surrender it.[48] Thus the whole effort at unilateral abrogation must be regarded as unsuccessful. Not only did the effort fail; it aroused strong resentment in Japan and increased the apprehension there respecting the danger to Japanese interests inherent in Chinese nationalist sentiment.

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[45] *China Year Book,* 1928, 766–788.

[46] Publications of the Permanent Court of International Justice, Series A, nos. 8, 14, 16, 18; see also *supra,* p. 140, for nature of the new treaty.

[47] *China Year Book,* 1929–1930, 835–839.

[48] *Supra,* p. 140–42.

Two important British treaties with China came to the end of a 10-year period in 1930 and 1933 respectively: the treaty of Tientsin of June 26, 1858 on October 24, 1930; and the Sino-British commercial treaty of September 5, 1902 on July 28, 1933. The treaty of Tientsin, which grants extraterritorial rights, contains an article regarding revision, which as in the Danish, Italian, Spanish and Portuguese treaties already described, may be interpreted to limit the revision to the tariff and the commercial articles:[49]

> It is agreed that either of the high contracting parties to this treaty may demand a further revision of the tariff and of the commercial articles of this treaty at the end of 10 years, but if no demand be made on either side within six months after the end of the first 10 years, then the tariff shall remain in force for 10 years more, reckoned from the end of the preceding 10 years; and so it shall be, at the end of each successive 10 years.

The commercial treaty of 1902 has a similar article, which provides only for "a revision of the tariff at the end of 10 years."[50] The Chinese Government did not denounce them but on December 23, 1933 the foreign office formally requested revision of the two treaties.[51] In view of the prior relinquishment of treaty control over Chinese customs tariffs, the crucial issue was that of extraterritoriality. It was not to be expected that the

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[49] China, Maritime Customs, *Treaties, Conventions, etc.,* I, 412.

[50] *Ibid.,* 558.

[51] *China Weekly Review,* April 28, 1934, 313.

British position on that subject would have altered since 1931. On May 19, 1934 the British Government replied that it was ready to effect such measure of revision as might be practicable and desirable.[52]

The first American treaty to come to the end of a 10-year period was the Sino-American treaty for the extension of commercial relations, which was signed October 8, 1903 and was subject to revision January 13, 1934. Article XVII on revision provides that "the tariff and the articles of this convention" may be revised; that is, the entire treaty.[53] This treaty contains many valuable provisions, particularly regarding trade and commerce, but it includes no especial grant of extraterritoriality. Such grants were made in earlier treaties and would not be affected by the termination of this treaty of 1903, which states in Article XVII:[54]

> It is agreed . . . that all the provisions of the several treaties between the United States and China which were in force on the 1st day of January, 1900, are continued in full force and effect, except so far as they are modified by the present treaty or other treaties to which the United States is a party.

The treaty of Wanghia, July 3, 1844, provides that after 12 years "inconsiderable modifications" may be made "in those parts which relate to commerce and navigation."[55] The Sino-American treaty of Tientsin, June 18, 1858, and the supplementary treaty of Peking, November 17, 1880, both include specific grants of extraterritoriality, yet appear to be permanent, for they contain no provision for revision.[56]

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[52] *Parliamentary Debates,* House of Commons, 1933–34, 5th Series, 290, col. 1081.

[53] MacMurray, *op. cit.,* I, 431; Malloy, William M., *op. cit.,* I, 261.

[54] Malloy, *op. cit.,* I, 196, 261.

[55] China, Maritime Customs, *Treaties, Conventions, etc.,* I, 690; Malloy, *op. cit.,* I, 196.

Following China's request of December 23, 1933 for revision of the American treaty of 1903, the foreign office and the American minister, Nelson T. Johnson, began conversations in January 1934.[57] As with the United Kingdom, the principal matter in issue was extraterritoriality. As yet no new understanding has been made public.

The general Sino-French treaties of Whampoa, October 24, 1844, and of Tientsin, June 27, 1858, grant extraterritorial rights, but as to revision contain only the stipulation that after 12 years "the Government of the Emperor of the French" may undertake negotiations for modification of the various provisions.[58] From a legal point of view these French treaties would appear to be in the same situation so far as the right of revision is concerned as was the Sino-Belgian treaty of 1865, which has already been described.

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[56] China, Maritime Customs, *Treaties, Conventions, etc.,* I, 713, 736; Malloy, *op. cit.,* I, 211, 239.

[57] *China Weekly Review,* February 3, 1934, 365–366; April 28, 1934, 313–314.

[58] Mayers, W. F., *Treaties between the Empire of China and Foreign Powers,* 2d ed. 49–70.

XII. TREATY RIGHTS IN CHINA: RESIDENTIAL AREAS AND LEASED TERRITORIES

CONCESSIONS AND SETTLEMENTS

An important issue between China and other States has been that of the continuance of foreign administration over sections of Chinese cities. Both at Peking and at Nanking Chinese governments have demanded that these "concessions" and "settlements" be returned to Chinese authority.

These concessions and settlements are situated in eight of the so-called treaty-ports, places opened by treaty to foreign residence and trade. In certain of these cities, such as Tientsin and Hankow, there are two or more concessions, each controlled by a different State. The present total number of concessions in China is 13.[1] In addition, there are two settlements

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[1] PRESENT CONCESSIONS

Great Britain	*Japan*	*France*	*Italy*
Canton	Amoy	Canton	Tientsin
Tientsin	Hankow	Hankow	
Newchwang	Tientsin	Tientsin	
	Hangchow	Shanghai	
	Soochow		

FORMER CONCESSIONS RECOVERED BY CHINA

Germany	*Russia*	*Great Britain*
Tientsin (1917)	Tientsin (1920)	Hankow (1927)
Hankow (1917)	Hankow (1920)	Kiukiang (1927)
		Chinkiang (1929)
		Amoy (1930)

Austria-Hungary	*Belgium*
Tientsin (1917)	Tientsin (1931)

See Hornbeck, *op. cit.,* 469; *China Year Book,* 1936, 76; *Chinese Year Book,* 1935–36, 350–351, 357–358, 379–380. Morse, *The Trade and Administration of China,* Chap. VIII; Bau, M. J., *China and World Peace,* 110.

which are under foreign administration, the most important being the well-known International Settlement at Shanghai, the other the island of Kulangsu at Amoy.[2]

These concessions and settlements are semi-independent municipalities, under the sovereignty but not under the control of China. They are much like American cities, except that they have no political relations with the state in which they are situated. Their control extends over police, roads, buildings, sanitation and taxes. While they may issue municipal regulations they do not have courts of their own, but must depend upon Chinese courts and consular and other foreign tribunals. They maintain their neutrality in time of civil war, and are regarded as legal asylums for political refugees from other parts of China. The form of government varies: many of the concessions are under the sole administration of the consul of the State to which the concession has been granted; in others the consul is assisted by a council, nominated or elected; while in the notable International Settlement at Shanghai the authority is vested in a Municipal Council now elected by both foreign and Chinese rate payers. The Legation Quarter at Peking, which by the Boxer protocol of 1901 was placed under the "exclusive control" of the legations, is administered by a commission appointed by the resident diplomatic representatives.

Ten former concessions already have been returned to China. When that country declared war on the Central Powers, it took over the German concessions in Tientsin and Hankow and the Austro-Hungarian concession in Tientsin; and these seizures were recognized as valid by the treaty of Versailles, 1919, and the Sino-German treaty of 1921 and by the treaty of Saint Germain-en-Laye, 1919. Further, when China terminated all relations with the old Tsarist regime, September 23, 1920, it took over the important Russian concessions in Tientsin and Hankow; and in the Sino-Soviet agreement of May 31, 1924 Russia recognized the new status of these former municipal areas. More recently, in the early part of 1927, influenced largely by the anti-foreign disturbances in the Yangtze region, the Governments of Great Britain and China (Hankow) arranged by the Chen-O'Malley agreements, February 19 and March 2, to hand over to Chinese control the British concessions in Hankow and Kiukiang. The latter was retroceded without conditions, but a long detailed agreement was made for the future administration of the British concession area in Hankow.[3]

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[2] Authorities differ respecting the number of foreign concessions and settlements that have been granted by China. The *Chinese Year Book,* 1935–36, 395–396, lists a total of 33, of which 23 are stated as existing today. Of the 8 areas not listed above, 6 are Japanese: Antung, Liaoyang and Yingkow in Manchuria, Foochow, Chungking and Shasi. The remaining two, Chefoo and Wuhu, are foreign residential areas, the former administered informally by foreigners as in a similar area at Foochow, the latter by Chinese local officers and the commissioner of customs, as at Yochow.

As early as January 17, 1927 the Belgian Minister at Peking informed the Chinese Government that Belgium was willing to retrocede its concession; but troublesome financial issues arose and the two Governments did not complete the details of the transfer until August 31, 1929.[4] The British Government has also expressed its willingness to negotiate for the retrocession of its Tientsin concession. A draft agreement for this purpose was drawn up and initialed by the British and Chinese delegates, but the final detailed agreement has not yet been signed.[5] However, Great Britain returned her Chinkiang concession in 1929[6] and the concession at Amoy in 1930.[7]

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[3] *China Year Book,* 1928, 737–748.

[4] *Chinese Social and Political Science Review,* Public Documents Supplement, XIII (1929), 177–181.

In the International Settlement at Shanghai the Chinese have gained genuine participation in the municipal government. Shanghai is one of the great cities of the world with a total population prior to the hostilities in 1937 of some 3,565,476, of whom 57,195 were foreigners.[8] Of its several distinct municipalities, two are foreign, the French concession and the International Settlement. The latter has a population of over 1,120-000 Chinese and over 39,000 foreigners.[9] The Settlement was originally an area set apart for foreign residence, from which Chinese were excluded; but after they were admitted they came in large numbers, especially during the disturbances of the Taiping Rebellion in the middle of the past century. The government is now vested in a Municipal Council of 14, of whom nine are elected annually by the substantial foreign rate payers, who number less than 3,500. The five Chinese members are elected separately by their own nationals. The present Municipal Council is composed of five British, five Chinese, two Americans and two Japanese. It performs very efficiently all the normal duties of the government of a great city except the supervision of courts; it has charge of police, schools, hospitals, streets, water works, parks, lighting and electrical power plants, gas works and a municipal band and orchestra. In its

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[5] *China Year Book,* 1928, 761, note; 915, note. For some years the Chinese have been represented on the Municipal Council of the concession; since 1928 they have chosen half of the Council members (*China Year Book,* 1931–2, 147).

[6] *Chinese Social and Political Science Review,* Public Documents Supplements, XIV (1930), no. 2, 13–19.

[7] *Ibid.,* no. 4, 16–19.

[8] *China Year Book,* 1936, 456.

[9] *Ibid.*

Volunteer Corps, often used for the protection of the Settlement during civil wars, its has a force resembling a local army. The Municipal Council is theoretically subordinate to the local consuls of the foreign states, who in turn are under the authority of the representatives of their countries in Peiping or Nanking and of their home Governments. But in its normal operations the Council acts in large measure independently of both consuls and the diplomatic body.[10]

In the government of the International Settlement the Chinese, until recently, had no share. After lengthy consideration it was agreed on March 6, 1928 that three Chinese were to be elected to the Council, and six additional Chinese appointed on various committees of the Settlement. This arrangement gave the Chinese nine members in the government, the number for which they had been contending, and yet left the Council under foreign control. It was modified on May 2, 1930, when the Chinese membership of the Council was increased to five.[11]

The urgency of Chinese demands for the re-establishment of sovereignty over the International Settlement prompted the Municipal Council on November 29, 1929 to invite Justice Richard Feetham, C.M.G., of South Africa to "explore the subject" of reform and "develop its practical possibilities." In an announcement of December 6, the Council explained its action:[12]

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[10] Hudson, Manley O., "International Problems at Shanghai," *Foreign Affairs,* VI (1927–28), 75–88; Willoughby, *op. cit.,* Chap. XX; Kotenev, A. M., *Shanghai: Its Municipality and the Chinese, passim;* Johnstone, W. C., *The Shanghai Problem.*

[11] The several phases of this process of adjustment are dealt with in the *China Year Book,* 1926, 934–936; 1928, 1226–1228; 1929–30, 101–103; 1931, 74.

[12] *Report of the Hon. Mr. Justice Feetham to the Shanghai Municipal Council,* I, 1–2.

Ever since the publicly announced policy of the foreign powers, and particularly America and Great Britain, with regard to the gradual relinquishment of extraterritorial privileges in China, the Council has fully appreciated the important relation of this policy to the complicated problem of the future status of the International Settlement during the transition period which must necessarily ensue before such a policy can become fully effective, as well as the necessity of devising some constructive plan or scheme which, while giving full consideration to the aspirations of the Chinese people, will at the same time afford reasonably adequate protection during this transition period to the great foreign, commercial and business interests which have been developed in Shanghai.

It has been unofficially intimated to the Council by persons intimately connected with government circles that the Council might well take the lead in formulating some such constructive plan or scheme, and that in order to obviate, in so far as possible, any impression or suggestion of bias with which any plan of merely local origin might possibly be regarded in official and unofficial circles, it is desirable that in formulating such a plan the Council should have entirely disinterested and open-minded advice of a high order.

Justice Feetham spent 18 months in Shanghai, from January 1930 to July 1931. His extensive report was presented to the Municipal Council in three volumes embracing six parts in April, June and July 1931, each part being published upon presentation.[13] The conclusions reached were not favorable to Chinese hopes for rendition of the Settlement. After analyzing the historical development, the administration and the business interests of the area, Justice Feetham concluded that order and liberty were more adequately safeguarded in the Settlement than in China generally:[14]

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[13] The Report was published in 1931 in 3 volumes by the *North China Daily News and Herald;* a summary by Justice Feetham appeared in the *China Year Book,* 1931–32, 45–86; briefer digests may be found in *Pacific Affairs,* IV, 586–614, 626–633, 806–824, and in *The Round Table,* MCMXXXI, 738–768. For comment on the report by foreigners and Chinese see *Pacific Affairs,* IV (1931), 819–24; also Dr. C. L. Hsia, *Problems of the Pacific,* 1931, 319–329.

> The National Government is taking steps to restore order and make its authority effective in China generally, and is seeking, in the face of immense difficulties, to prepare the way, by its legislative and administrative measures, for the introduction of constitutional government. Meanwhile, owing to the forces available for the protection of the Settlement, and to the fact that in the Settlement the rule of law can be maintained on the basis of treaty provisions, the Settlement is able to enjoy a greater degree of security than can at present be provided in centers under purely Chinese control. . . . Thanks to the peculiar advantages of its situation. . . , the Settlement, at the present stage of national development, is able not only to confer considerable benefits on its own large population, and to safeguard the foreign and Chinese interests immediately concerned in its commerce and industry, but also, by functioning as the country's principal business and financial center, to play a unique and essential part in the economic life of China as a whole.

The report was opposed to the immediate establishment of a new regime in which Sino-foreign administration would be maintained but under a municipal charter granted by the Chinese Government. Justice Feetham stated his belief that the Chinese leaders in the Settlement were at one with the foreigners on this point. He laid down five difficult conditions for rendition: (1) the existence of a strong national government, (2) the establishment of constitutional government and the idea of the rule of law, to be evidenced by a charter of Settlement self-government and by independent, effective courts therein, (3) non-interference by the National Government or any political party with the proper sphere of Settlement administration, (4) sufficient acquaintance of the local Chinese with representative institutions, and (5) transfer by international agreement. It was obvious that these conditions implied a transition period of indefinite duration, particularly since there is large room for controversy as to the meaning of such terms as "constitutional government" and the "rule of law" and since the third condition—non-interference by the National Government—is inconsistent with the principles of centralized control upon which that government operates so far as possible.

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[14] *Report of the Hon. Mr. Justice Feetham,* I, 366.

Although the report was praised by the Municipal Council and by the conservative foreign press in Shanghai, Tientsin, Tokyo and London, it was disappointing to the Chinese, who considered that Mr. Feetham had overstated the obstacles to relinquishment, glossed over the deficiencies of Council government, and given too little attention to a workable plan that would establish Chinese control of the Settlement within a definite period. His disregard of views of Chinese, other than "responsible" members of the Settlement community, and of the position of the Chinese Government on the issue, was criticized. The net result of the investigation, except for certain useful suggestions for reforms of a minor character, was a neatly organized compilation of facts and a carefully reasoned set of conclusions from legal and theoretical premises that were sound in themselves but had become outdated by the swift rise of Chinese national consciousness.

The Settlement authorities have shown an inclination of recent years to co-operate with the Chinese Government and with the municipality of Greater Shanghai in certain respects. Greater Shanghai was organized in 1926 to amalgamate the cities of Nantao, Chapei, Woosung, Pootung and intervening or appurtenant local units into a single great municipality. It forms a half-circle embracing the Settlement and the French Concession, which the Chinese expect eventually to include in it. Denominated by the National Government a special municipality, it was governed by a mayor who was directly responsible to the cabinet at Nanking. The principal issue between Greater Shanghai and the Settlement authorities has been that of the extra-Settlement roads. In order to relieve congestion, the Settlement Council has purchased adjoining land and built more than 50 miles of roads over which, as well as over abutting private property, it has exercised police powers and collected taxes. The new Chinese municipality proved to be an effective agent of the National Government in checking further expansion and in contesting the right of the Settlement Council to exercise jurisdiction over the external roads areas. During Justice Feetham's investigation the two administrations began parleys out of which, in July 1932, came a draft agreement to recognize Chinese authority over the roads upon certain conditions as to taxation and foreign supervision over a special police force. Execution of the agreement was prevented by a dispute over the Japanese share in the contemplated force.[15] Subsequent negotiations also have failed to solve the problem.[16]

Japan's "positive" policy toward China has been expressed of recent years in demands for a larger influence in Settlement affairs. More money for Japanese schools, larger representation on the Council, the appointment of Japanese to many of the unusually lucrative posts hitherto largely monopolized by the British, and a more important share in police administration are greatly desired and vehemently urged. In population the Japanese outnumber all the other foreign communities combined, but in taxable property they fall behind the Chinese, British, and American residents of the Settlement. The driving force behind Japanese demands is furnished by a Residents Corporation of 5,000 householders which has an annual budget of $800,000 Chinese currency, and by an Association of Streets Unions, i.e. of persons residing in Shanghai on neighboring streets.[17]

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[15] Lockwood, W. W., Memorandum of American Council, Institute of Pacific Relations, April 20, 1934.

[16] *China Weekly Review,* July 7, 1934, 234.

The condition of "imperfect war"—to recall Wheaton's effort at classification—which has existed at intervals between China and Japan since September 18, 1931 has had disastrous consequences for Shanghai. The use of the Settlement by the Japanese forces as a base of military action and supplies in 1932 and 1937 and the devastation visited upon the lives and property of non-combatants in the Settlement in the resulting hostilities have lowered Council authority and lessened security. While the existence of the Settlement may ultimately prove to have assisted to preserve the integrity of Chinese territory, it has also impeded Chinese measures of defense, since the Chinese forces were unable to send troops into the area. Both in 1932 and in 1937 the United States and Great Britain sought unsuccessfully to maintain the neutrality of the Settlement;[18] a writer in the quasi-official *People's Tribune* epitomized the situation in 1932 as follows:[19]

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[17] "Shanghai's Japanese Community," *Contemporary Japan,* V, December, 1936, 449–456.

> The inviolability of the neutral status of the International Settlement, on any given occasion, therefore, depends upon the pleasure of any one particular interested foreign power which happens to have the largest military unit on the spot, capable of challenging the combined strength of the other foreign units.

Foreign business men in China are in general opposed to the demands of the Chinese for retrocession of the remaining concessions and settlements, situated as they are in the main centers of foreign business activity.[20] They point to the administration of the concessions which have been turned over to the Chinese as evidence of the correctness of their point of view. Each of these former foreign-controlled areas was changed into a "Special Administrative District" with a form of government designed to continue the participation of the foreigners and to exclude local Chinese political control. Each "district" was to be under a director appointed by the Chinese National Government, who was to be advised by a council, part foreign and part Chinese. In the agreement for the government of the former British concession at Hankow, it was definitely stipulated that the Council should consist of the Chinese director as chairman, and of six additional members, three Chinese and three British. There was considerable complaint from both foreign diplomats and traders regarding this new form of administration.[21]

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[18] Willoughby, W. W., *The Sino-Japanese Controversy and the League of Nations,* 319–324; Stimson, Henry L., *The Far Eastern Crisis,* 139–152; *Japan Weekly Chronicle,* August 26, 1937, 294–295; see also *supra,* p. 111.

[19] *The People's Tribune,* May 31, 1932, 226.

[20] The lease of the Japanese concession at Hangchow was renewed for 30 years on April 3, 1935 at the insistence of the Japanese Government (*China Weekly Review,* April 27, 1935, 285–286).

The recent incorporation into the regular Chinese municipality of Hankow of the Special Administrative Districts which were formerly German and Russian concessions has caused considerable apprehension among the foreign groups. In the British House of Commons, Sir Austen Chamberlain said, February 20, 1929: "The question of the cancellation of the constitutions of these districts is being taken up with the National Government by His Majesty's minister, who is stating the objections to the retrograde step taken by the Wuhan authorities and urging reconsideration thereof, with the idea of preserving some form of foreign representation in the administration." [22] In support of the Chinese, however, it should be stated that their administration of the former Russian section of Harbin, which was taken over by the local Chinese authorities, seemed to be a decided improvement over the previous Russian regime.

The United States has no concessions in China, but maintains that it has an interest in the International Settlement. Secretary of State Kellogg in a note of February 7, 1927, after proposing that the International Settlement should "be excluded from the area of armed conflict so that American citizens and other foreigners may receive adequate protection," added that "the American Government will be ready for its part to become a party to friendly and orderly negotiations properly instituted and conducted regarding the future status of the Settlements."[23]

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[21] Quigley, Harold S., "Foreign Concessions in Chinese Hands," *Foreign Affairs,* VII (1928), 150–151. For recent British opinion, see "Great Britain and the Pacific," *Pacific Affairs,* V, May, 1929, 250–281. For a favorable view of the Chinese administration of the former concessions in Hankow, see Chapman, H. O., *The Chinese Revolution, 1926–1927,* 151–152.

[22] Great Britain, *Parliamentary Debates,* 5th series, 225, col. 1097. The incorporation occurred on January 1, 1929.

LEASEHOLDS

At the Washington Conference, Dr. V. K. Wellington Koo said "the Chinese delegation believed that the time had come for the interested powers to relinquish their control over the territories leased to them."[24] China has already obtained a measure of success in its effort to regain these long-term leaseholds. The territory of Kiao-chou in the province of Shantung which was leased to Germany for 99 years in 1898 and later transferred to Japan at the Paris Conference in 1919, was formally returned to China by Japan in accordance with the terms of a Sino-Japanese agreement signed in connection with the Washington Conference, 1922.[25]

Weihaiwei, situated in the northern part of Shantung, was leased to Great Britain in 1898 "for so long a period as Port Arthur shall remain in the occupation of Russia." At the Washington Conference, Arthur J. Balfour on behalf of the British Empire promised that this leasehold would be returned to China under reasonable conditions.[26] Negotiations for retrocession were interrupted frequently but on April 18, 1930 a formal convention provided for restoration of Weihaiwei on October 1 of that year. The British Government presented various public properties—lands, buildings, harbor works and the Chefoo-Weihaiwei cable—to the Chinese Government. On its part the latter Government agreed to maintain the area as a place of international residence and trade "unless and until they decide to close the port . . . and reserve it exclusively as a naval base." In an accompanying agreement British naval forces were authorized to use the island of Liukungtao at Weihaiwei as a summer training ground.[27] Rendition of the lease took place as contemplated on October 1, 1930.

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[23] Hornbeck, *op. cit.,* 555; for recent evidences of interest see *infra,* p. 189.

[24] *Conference on the Limitation of Armament,* 1060.

[25] MacMurray, *op. cit.,* I, 112; II, 1488; *Conference on the Limitation of Armament,* 200; League of Nations, *Treaty Series,* X, 310; XXII, 257; XXVII, 426.

[26] MacMurray, *op. cit.,* I, 152; *Conference on the Limitation of Armament,* 226.

The French leasehold, the area around the Bay of Kuang-chou, was granted by China in 1898 for 99 years. At the Washington Conference, René Viviani declared that France would restore its leased territory if all the other States should do the same. He said:[28]

> The Government of the republic is ready to join in the collective restitution of territories leased to various powers in China, it being understood that this principle being once admitted and all private rights being safe-guarded, the conditions and time limits of the restitution shall be determined by agreement between the Chinese Government and each of the Governments concerned.

Great Britain showed no inclination at the Washington Conference to return its remaining leased territory, Kowloon Extension, opposite Hong Kong, obtained in 1898 for 99 years. Nor did Japan show an inclination to return the Liaotung Peninsula which was leased originally to Russia in 1898 for 25 years but which was transferred after the Russo-Japanese War to Japan under the conditions of the original lease. In 1915

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[27] *Chinese Social and Political Science Review,* Public Documents Supplement, XIV (1930), no. 3, 1–11.

[28] MacMurray, *op. cit.,* I, 128; *Conference on the Limitation of Armament,* 1062.

Japan obtained by a treaty with China, the moral validity of which China denies, an extension of this lease to 99 years.[29]

Of the former leased territories, in summary, two have already been given back to China; another is to be retroceded when the other foreign leaseholding States shall take the same action; but the remaining two are now held by foreign States which appear to hold to the terms of the leases as written.[30]

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[29] MacMurray, *op. cit.,* I, 127, 130, 523, 549; II, 1220.

[30] Hong Kong and the part of Kowloon immediately opposite were ceded to Great Britain in full sovereignty in 1842 and 1860 respectively. The more ardent nationalists demand that these also shall be returned to China.

XIII. TREATY RIGHTS IN CHINA: MISCELLANEOUS

Foreign Troops and Warships

The Chinese resent the presence in China of military forces from other countries, and wish to cancel those treaty provisions which are held to authorize them. The treaty States, however, point out that they are empowered by treaties and conventions to keep such forces in Peking and from Peking to the sea, and to patrol the rivers of China by their gunboats.

The Boxer protocol of 1901 clearly and definitely authorized the signatory foreign States to fortify the Legation Quarter in Peking, to guard it by soldiers and to maintain additional troops at designated points from Peking to the sea. These rights those Governments, including the United States, have exercised; the number of guards and troops has varied according to the exigencies of the military and political situation in North China. The validity and the meaning of the Boxer protocol are not denied by the Chinese, but they generally regard it as one of the unequal treaties which is no longer adapted to present-day conditions.[1]

The right to send gunboats into China's inland waters is based upon Article 52 of the Sino-British treaty of Tientsin, 1858, which reads:[2]

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[1] For the Boxer protocol, see MacMurray, *op. cit.,* I, 278. Dr. C. T. Wang, minister for foreign affairs, said in an interview, January 10, 1929: "The National Government considers the time and events that necessitated the protocol of 1901 as gone, therefore also the *raison d'être* of the protocol. Furthermore, it declares in protest that the stationing of troops in China is a serious violation of international law and it expects the powers concerned to afford immediate correction" (*Japan Weekly Chronicle,* January 24, 1929, 92).

> British ships of war, coming for no hostile purpose, or being engaged in the pursuit of pirates, shall be at liberty to visit all ports within the dominions of the Emperor of China, and shall receive every facility for the purchase of provisions, procuring water, and, if the occasion requires, for the making of repairs. The commanders of such ships shall hold intercourse with the Chinese authorities on terms of equality and courtesy.

Similar rights were granted to certain other States, and the remaining treaty-powers claimed the same privileges on the basis of the most-favored-nation clause. The Chinese deny that this British treaty justifies the present naval practise of sending gunboats in time of peace to river ports in China which are not treaty-ports. Some American authorities doubt whether the foreign States are justified in the interpretation they give to these treaty provisions;[3] but the American Department of State expressed the opinion in 1903 that "our gunboats may visit the inland ports of China, including those which are not treaty-ports."[4] This view was reaffirmed by Secretary Hull in a note to Japan of December 14, 1937 relative to the sinking of U.S.S. *Panay*.[5]

Inland Navigation

The principal inland waterways in China have been opened to the trade of foreign ships by treaties beginning with the Sino-British treaty of Tientsin, 1858.

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[2] China, Maritime Customs, *Treaties, Conventions, etc.,* I, 419.

[3] Willoughby, *Foreign Rights and Interests in China,* II, 854.

[4] United States, *Foreign Relations,* 1903, 85–90.

[5] Department of State, *Press Releases,* XVII, 448; *New York Times,* December 15, 1937.

In most of the advanced countries of the world, however, the rights of inland navigation are reserved for their own nationals or possibly granted to foreigners under special conditions. This right of inland navigation by foreigners is regarded by Chinese as another special privilege due to the unequal treaties.[6] Since 1911 Chinese commercial treaties have expressly denied this privilege to States newly entering into treaty relations as well as to those accepting new treaties replacing those of the old regime.[7]

MISSIONARIES

The exceptional privileges enjoyed by missionaries in China, the rights to reside, to own land and to erect buildings for missionary purposes in the interior of the country, and to be protected in their missionary work are based upon clauses in the unequal treaties. So also is the right of native Chinese to embrace the Christian religion. During the past few years many missionaries, especially the American Protestant missionary societies, have advocated the elimination of these "toleration clauses" from the treaties in order that the rights of Christian missions in China should depend not upon treaty stipulation but upon privileges freely granted by the Chinese themselves.[8] Such clauses do not appear in the treaties concluded by the National Government. In notes exchanged concurrently with signature of the Sino-Polish treaty of September 18, 1929, reciprocal provision is made to "accord, as in the past, full protection to the Polish/Chinese churches, cultural institutions and schools which are established in China/Poland, provided that they conform to the laws and regulations in force."[9]

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[6] Willoughby, *op. cit.,* II, 846–853.

[7] *Chinese Year Book,* 1935–36, 644–645; *Problems of the Pacific,* 1931, data papers by M. J. Bau and J. P. Chamberlain, 341–360.

[8] Hornbeck, *op. cit.,* 456–458; Willoughby, *op. cit.,* II, 699–725.

Financial Supervision and Control

By international agreements foreigners not only supervise the Chinese Maritime Customs Service but also the Chinese Post Office, and, in part, the Salt Administration. Foreign Governments control railroad systems in China, and the leading foreign banking groups with the support of their Governments have agreed through the Consortium to act jointly in regard to loans desired by the Chinese central or provincial Governments.

As to the postal department, the Chinese Government stated in its agreement of 1898 with France:[10]

> When the Chinese Government organizes a definite postal service and places a high functionary at its head, it proposes to call for the help of foreign officers, and declares itself willing to take account of the recommendations of the French Government in respect to the selection of the staff.

At the Washington Conference the treaty States agreed to abolish their foreign post offices in China under certain conditions, one of which read:

> That an assurance is given by the Chinese Government that they contemplate no change in the present postal administration so far as the status of the foreign co-director general is concerned.

To this resolution the Chinese delegation agreed.[11] In the early part of 1929, a Norwegian was appointed co-director general of posts to replace a Frenchman.[12] In July 1931 the title of the co-director general was altered to that of deputy director general. In June 1932 the Norwegian deputy was succeeded by a Chinese. Thus was Chinese control established over the postal system without foreign objection.[13]

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[9] *China Year Book,* 1931–32, 258–261. The treaty became effective July 9, 1931.

[10] MacMurray, *op. cit.,* I, 124.

[11] *Conference on the Limitation of Armament,* 1646.

In the reorganization loan agreement of 1913 between the Chinese Government and British, French, German, Japanese and Russian banking groups, it was provided that a foreigner should be appointed associate chief inspector, with extensive powers of the Chinese Central Salt Administration; and that the salt taxes should be deposited in the banks of these foreign financial institutions.[14] This arrangement was terminated by China on November 16, 1928, when the salt inspectorate was deprived of its independent character and brought directly under the control of the ministry of finance, of which it then became an integral part. The foreign associate inspector was retained but without authority. The collected revenues were thereafter deposited in Chinese banks. To this unilateral act of abrogation a joint protest was addressed by the British, French and Japanese Governments, in which they declared:[15]

> If the National Government of China vary by unilateral action the terms of international agreements, the responsibility for any consequences that may follow from such action must rest on their shoulders, and in particular they must take full responsibility for liquidating all loans secured thereunder, whether the scheme . . . proves successful in producing the requisite amount of revenue or not.

[12] *Week in China,* January 26, 1929, XII, 84.

[13] *China Year Book,* 1934, 603.

[14] MacMurray, *op. cit.,* II, 1026–1027.

[15] *China Year Book,* 1931–32, 481–482.

Foreign States or their nationals have obtained either ownership or exceptional rights of control over various railroads in China, notably the Chinese Eastern and the South Manchuria Railways.

It is their fear of further control or supervision by foreigners which has caused the apprehension felt by Chinese regarding the agreement for the Four-Power Consortium, made in 1920 with the approval of their respective Governments, by American, British, French and Japanese banking groups. This is sometimes called the second Consortium to distinguish it from the first, or Six-Power Consortium of 1912, which was organized by banking interests of France, Germany, Great Britain, Japan, Russia and the United States, in order to participate equally in future administrative loans to the Chinese Government. During the Great War the first Consortium no longer functioned, but after the peace of Versailles, a second Consortium was organized at the suggestion of the American Government. In order to abolish spheres of interest and the struggle for concessions, the Consortium groups agreed that they would share all Chinese governmental loans, administrative, industrial or political, offered to any one of them. Although the American Secretary of State, Charles E. Hughes, described the Consortium as a "co-operative effort for the assistance of China," the Chinese have not availed themselves of its services, fearing that it would bring about an increased control by foreigners of the operations of the Chinese Government.[16]

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[16] China, Maritime Customs, *Treaties, Conventions, etc.,* III, 3822; Willoughby, *op. cit.,* II, Chap. XLI; Carnegie Endowment, *The Consortium: The Official Text of the Four Power Agreement for a Loan to China and Relevant Documents;* Field, F. V., *American Participation in the China Consortiums, passim.*

THE RECOGNITION OF THE NATIONAL GOVERNMENT

For some years the division of China between contending Governments made it impossible for foreign States to negotiate new treaties which would be recognized throughout the country as a whole. With the victory of the Nationalist armies in the spring of 1928, however, not only could such negotiation take place, but the formal recognition by the other States of the Government at Nanking as the *de jure* Government of China was also a natural consequence.

The settlement of the Nanking incident of March 24, 1927 was followed by the formal recognition of the National Government as the *de jure* Government of China.[17] This recognition was first granted by the United States by the act of signing the tariff treaty, July 25, 1928.[18] Other States followed. The British minister, December 19, signed the Sino-British tariff treaty; and the following day, after this act of recognition, formally presented his credentials as minister to General Chiang K'ai-shek, the head of the National Government.[19] By the close of the year 1928 all the treaty States except Japan had granted recognition to the National Government by the signature of the several tariff treaties. In 1929 Japan also recognized the Nanking Government as the *de jure* Government of China.[20] The initiative of the Soviet Government in accrediting an ambassador to China in 1924 was not followed by any other State until 1934 when, on September 26, Italy and China agreed to raise their respective legations to embassies.[21] In 1935 the other great States —Japan, Great Britain, the United States, Germany and France—exchanged ambassadors with China.

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[17] For terms of settlement see *Chinese Social and Political Science Review,* Public Documents Supplement, XII (April, 1928), 38–42; see also *American Journal of International Law,* XXIII (1929), 120–121. For the British notes, dated August 9, 1928, see British Command Papers, *China,* No. 1, 1928; *Papers Relating to the Settlement of the Nanking Incident of March 24, 1927;* also, *Chinese Social and Political Science Review,* Public Documents Supplement, XII (1928), 67. For the text of the Sino-French notes of October 1 and 9, 1928 and the Sino-Italian notes of about the same dates, see *North China Herald,* October 20, 1928. For the Sino-Japanese notes, dated May 2, 1929, see *Chinese Social and Political Science Review,* Public Documents Supplement, XIII (1929), 62.

[18] *New York Times,* September 28, 1928.

[19] *Week in China,* December 22, 1928, XII, 13–14.

Since Nanking had been made the capital of China, the States were obliged to consider whether they would transfer their diplomatic establishments from Peiping to that city. To make this transfer meant for the treaty-powers leaving the commodious, comfortable, treaty-protected legation quarter of Peiping for the over-crowded city of Nanking, where new buildings would have to be erected, and where the present exceptional diplomatic protection in Peiping would have to be abandoned. According to information available to the American Department of State in October 1937, the United States, Great Britain, the Soviet Union, France, Italy, Germany, Japan and Belgium had established embassies at Nanking and the Netherlands had a legation there. All of these countries were also maintaining diplomatic establishments at Peiping. Cuba, Chile, Czechoslovakia, Denmark, Norway, Poland, Sweden and Switzerland were then maintaining legations at Shanghai. Embassy offices of Belgium, Great Britain, Italy, Japan and the Soviet Union also were functioning at Shanghai. Brazil and Portugal had legations at Peiping.

Another recent action of several of the treaty-powers, which showed the international confidence in the growing stability of China and manifested the desire of the states to support the National Government, was the cancellation of the arms embargo agreement of 1919. This agreement, signed by France, Great Britain, Japan, the United States and other treaty powers, bound the signatory States to prevent their citizens from exporting munitions to China "until the establishment of a Government whose authority is recognized throughout the whole country." On April 26, 1929 the National Government was informed that this agreement was canceled by the signatory States. So far as the United States was concerned, our Government would henceforth permit the export of arms from this country to China upon the request of the National Government, but not otherwise.[22]

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[20] *Week in China,* June 1 and 8, 1929, XII, 452–453, 470–471.

[21] *China Weekly Review,* October 6, 1934, 181–182.

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[22] Department of State, Press Release, May 1, 1929; *New York Times,* May 1, 1929.

XIV. THE POSITION OF THE UNITED STATES

The United States and China

The inclination of European and American governments to release China from the control of obsolete articles of the unequal treaties was given tangible expression during the decade that followed the Great War. This attitude was, apparently, shared by Japan.[1] With the launching in September 1931 of the Japanese program of conquest, Occidental States were faced with the anticipated necessity of reconsidering their policies. Attention was given in Chapter IX to their efforts to stay Japan by diplomacy. It now remains to trace their reactions to the development of Japan's policy since the creation of Manchoukuo. It is apparent that the relations of Western states with China and Japan since 1933 have been primarily conditioned by this central issue. Primarily but not entirely, though what one observer might regard as extraneous would seem to another to be an aspect of the cosmic struggle for supremacy in Eastern Asia.

The attitude of the American people toward China is traditionally one of sympathy and friendship. One of the causes for this feeling is undoubtedly to be found in the many educational and missionary activities carried on by Americans in that country. The capital investment of more than $40,000,000 gold in American missions, colleges, hospitals and other philanthropies is but a small portion of the amount which has been contributed by Americans, rich, poor and moderately circumstanced, toward the maintenance of these humanitarian institutions. Missionaries supported by numerous churches have kept their members informed upon aspects of Chinese life and sympathetic with Chinese ideas. The resulting interest of millions of Americans in the people of China has been quite out of proportion to the number of Chinese who have adopted the Christian faith. Presumably because American mission work and educational activity began earlier in China than in Japan and developed a much more extensive organization, the effect upon public sentiment has been more impressive than that of their equally devoted counterparts in Japan.

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[1] See *infra,* chapters X–XIII; for historical treatment of the period see Morse, H. B. and MacNair, Harley F., *Far Eastern International Relations;* Pollard, Robert T., *China's Foreign Relations, 1917–1931;* Clyde, Paul H., *A History of the Modern and Contemporary Far East;* Vinacke, Harold M., *A History of the Far East Modern Times,* 2nd ed.

The policies of the United States and the attitude of the American people toward China have been distinctive and in the main consistent throughout the past century.[2] The official policies have aimed to maintain (1) the Open Door and (2) the territorial and administrative integrity of China. These two distinctive policies, which had actually been in effect for some decades, were first definitely formulated by Secretary John Hay in 1899 and 1900. For some years they were a strong and helpful factor in China's international relations. Finally, at the Washington Conference, 1921–1922, they were carefully defined and embodied in a general multilateral treaty signed by the nine Pacific states.[3]

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[2] The best extended account of American policy to 1900 is to be found in Dennett, Tyler, *Americans in Eastern Asia.* This is supplemented by Dr. Dennett's chapter on the "Open Door" in *Empire in the East,* ed., by Barnes, J., 269–296. An excellent exposition of principles is given by Hornbeck, S. K., *Principles of American Policy in Relation to the Far East,* Publication No. 567, Department of State, 1934; the latest authoritative brief history is that of Bemis, S. F., *A Diplomatic History of the United States;* another recent work is *America in the Pacific,* by F. R. Dulles; a good factual account of the history of the Open Door doctrine is *The Open Door Doctrine in Relation to China,* by M. J. Bau.

These policies have aimed not only to further the commercial interests of the United States but also to establish principles which would help to maintain peace and security in China and the entire Far East. In the early days the China trade was an important part of American foreign commerce. In 1936 while not so large proportionately, American trade with China was greater than that of any other country. It furnished 19.66% of China's imports and took 26.44% of its exports, in total $371,454,000 silver.[4] These figures take no account of extensive Japanese smuggling operations nor of the trade of Manchoukuo. Since 1932 an important item in American trade has been the export of aircraft and accessories, including military planes. From $157,515 (U.S.) in 1932 the value of these items rose to nearly $8,250,000 (U.S.) for the 18 months from January 1, 1936 to July 31, 1937.[5]

Although American investments in China are small compared to those of Great Britain and Japan, they are far from negligible. In 1930 they were estimated by a careful and competent investigator at close to $240,000,000 gold. Of this sum two thirds was in business investments ($155,112,778), a sixth in Chinese Government obligations ($41,711,346), and a sixth in missions and philanthropic undertakings.[6] In 1935 the estimated total of American investments was $200,000,000.[7] Since 1930 American capital has played an important part in the development of commercial aviation in China. Pan American Airways owns 45 per cent of the stock in the China National Aviation Corporation. The Curtiss-Wright Corporation built an airplane factory at Hangchow in 1935 which turned out 60 military planes a year for the account of the Chinese government.[8]

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[3] Actually the treaty was signed by representatives of six states of the British Empire; thus the original signatories totalled 14; subsequent accessions increased the number of contracting parties to 19. *Conference on the Limitation of Armament,* 1621; *New York Times,* October 7, 1937.

[4] *Far Eastern Survey,* March, 1937, 70; *People's Tribune,* April 16, 1937, 138.

[5] Bisson, T. A., "American Policy in the Far East" (*Foreign Policy Reports,* XII, No. 22); *Far Eastern Survey,* September 15, 1937, 215–216.

Recent years also have presented the unusual development of direct financial co-operation between the American and Chinese Governments. In May 1933 T. V. Soong, then minister of finance, arranged for a credit of $50,000,000 (U.S.) with the Reconstruction Finance Corporation, the amount to be taken in wheat and cotton. A significant feature of this arrangment was the absence of any provision for the hypothecation of Chinese revenues as security. Because of unfavorable marketing conditions the Chinese Government cancelled all but some $17,000,000 of the credit.[9] The money realized from sale of the cotton and wheat was devoted to reorganization of the currency, road building, commercial aviation and other constructive enterprises. Since no funds were loaned or bonds issued the scheme did not run counter to the Consortium agreement.

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[6] Remer, C. F., *op. cit.,* 308.

[7] *Far Eastern Survey,* August 12, 1936, 181.

[8] Bisson, T. A., *op. cit.,* (*Foreign Policy Report,* XII, No. 22), 274–275.

[9] *Current History,* August, 1934, 639–640.

Dr. H. H. Kung, Chinese minister of finance, wrote to the American consul general in Shanghai on August 20, 1934 that the Silver Purchase Act of 1934 appeared to menace the stability of China's currency, "which has recently been flowing out of the country to a degree that is potentially alarming."[10] A year later, on September 24, 1934, Dr. Kung cabled Secretary of the Treasury Henry Morgenthau, Jr., that the rising exchange value of silver was causing a "serious drain" of the metal from China and had involved "severe deflation and economic losses to China" and "dislocated China's balance of payments in part at least by hampering exports." He asked for co-operation "to prevent further rise and to maintain the stability of silver which the London agreement [of July 1933] contemplates." He further indicated that China was considering the establishment of a gold basis currency and in consequence desired "to ascertain in principle whether the American Government is willing to exchange . . . gold for silver."[11]

The outcome of this correspondence was an agreement of May 18, 1936 between Secretary of the Treasury Morgenthau and the Chinese Ministry of Finance for the purchase "from the Central Bank of China of substantial amounts of silver" and for making "available to the Central Bank of China, under conditions which safeguard the interests of both countries, dollar exchange for currency stabilization purposes." Following up this arrangement, on July 9, 1937 Secretary Morgenthau announced that[12]

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[10] Wheeler-Bennett, J. W. and Heald, Stephen A., *Documents on International Affairs,* 1934, 229–230.

[11] *Ibid.,* 231–232; see also Stone, Edward, *Memorandum on Silver,* American Council, Institute of Pacific Relations, October 26, 1934; Salter, Sir Arthur, *China and Silver* (Economic Forum Publication).

> Arrangements have now been made through which the Government of China will purchase from the United States Treasury a substantial amount of gold. To aid the Chinese Government thus to augment its gold reserves, and in accordance with the terms of the United States Silver Purchase Act of 1934, the United States Treasury will purchase an additional amount of silver from the Chinese Government.
>
> The United States Treasury will also broaden the scope of the arrangements under which the Central Bank of China has been enabled, under conditions which safeguard the interests of both countries, to obtain dollar exchange for currency stabilization purposes.

THE UNITED STATES AND JAPAN

Japan and America are bound together by many ties both of old friendship and of modern trade and finance. The former friction between them arising from differences over Chinese relations, which appeared intermittently from the close of the Russo-Japanese War until the Washington Conference, appeared happily allayed after the conference. There was however, one outstanding issue between these nations: the exclusion provision of the American immigration act of 1924.[13] The Japanese Government and people are not reconciled to it and refuse to regard the matter as a closed incident. The Japanese minister for foreign affairs, Baron Shidehara, stated in the Diet in January 1926 regarding "the so-called Japanese exclusion clause":[14]

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[12] United States, Treasury Department, Press Service No. 10–71; *New York Times,* July 10, 13, 1937. In this connection note may be taken of the work of the Kemmerer Commission, a group of American financial experts, which was employed during 1929 by the Chinese Government to study and make recommendations concerning financial policy and administration (*China Year Book,* 1931, 392–394).

[13] For the act of 1924 and a short history of the immigration issue, see Buell, R. L., *Japanese Immigration* (World Peace Foundation Pamphlets, VII, Nos. 5–6, 1924).

> I only desire to make it clear that we remain unchanged in our feelings of deep regret at that particular clause which seems to us irreconcilable with the rules of international comity and justice.

Similar statements have been made each succeeding year by the Japanese minister for foreign affairs in his annual address before the Imperial Diet.[15] On January 22, 1929, Baron Tanaka said:[16]

> It is a source of congratulation that the bond of friendship, economic and political, with the United States is being more than ever strengthened. Only I wish to add that the matter of the immigration law which has been pending for the past few years has not yet been composed. A satisfactory solution of a problem like this must after all depend upon the mutual good understanding which, I am confident, is growing year after year.

This official attitude expresses with moderation the feeling which is held deeply and strongly by the Japanese people as a whole. Any solution would be satisfactory to them which removed the national humiliation, as they regard it, of discrimination.

American opinion is as clearly divided regarding this issue as Japanese opinion is united. The persistence of opposition to the immigration of Asiatic labor along the Western coast was strongly evidenced by a joint resolution introduced into the California state Senate, February 27, 1929, and subsequently passed by both houses of the Legislature. After referring to the efforts of various organizations to apply the quota system to all countries the resolution concluded:[17]

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[14] Toynbee, *op. cit.,* 1926, 504.

[15] For Baron Shidehara's statement, 1927, see *ibid.,* 510; for Baron Tanaka's statement, January 21, 1928 see *Japan Weekly Chronicle,* January 26, 1928, 101.

[16] *Japan Weekly Chronicle,* January 31, 1929, 118.

> Resolved, By the Senate and Assembly of the State of California, jointly, That the Legislature of this state protests against any character of action designed to modify the present immigration laws relating to the exclusion of Asiatic laborers and reaffirms its belief that the privilege of American citizenship should continue to be restricted as at present, and that the privilege of immigration should be extended only to those people who may become citizens of the United States. . . .

American statesmen were, however, seeking a method of alleviating the unhappy situation resulting from this conflict of cultures. Secretary of State Stimson recently has written that on the very day of the first Sino-Japanese clash near Mukden September 18, 1931 in discussing with Ambassador Debuchi the apparent growth of friendly feeling between the American and the Japanese peoples he had said that:[18]

> American opinion toward Japan had become so kindly that I was encouraged to hope that before I left office I might be able to take up for successful solution the long standing source of irritation arising out of our immigration laws . . . and to put them upon a basis which, while conforming to our own requirements might be not offensive to the sensibilities of the Japanese people.

[17] (California) Senate Joint Resolution, 1929, No. 6.

[18] Stimson, H. L., *op. cit.*, 3.

Ambassador Saito made a friendly reference to changing American sentiment on immigration on November 23, 1934:[19]

> Japan has been looking upon the immigration question not so much as a question of immigration *per se* as a question of discrimination—a question of prestige. . . . I am glad to have been assured by many Americans that there has come to be a strong movement in America to have the immigration law in question amended so that the Japanese will be placed on an equal footing with Europeans. Several chambers of commerce and some bar associations . . . have passed resolutions that the legal discrimination should be removed. Already there are bills introduced in the United States Congress with the same object. A leaven of fairness and justice appears to be at work in the American public mind regarding this matter. Japan is patiently waiting for the day when this needless affront to the Japanese sense of honor will be deleted from American legislation.

Japanese-American Economic Relations

The balance of trade between the United States and Japan has in general been favorable to Japan. This trade has greatly exceeded that between the United States and China. Approximately four-fifths (in value) of Japanese exports to this country in 1929 were duty-free.[20] Since 1929 there has been a steep decline in the price of raw silk, which has turned the balance against Japan since 1932.[21]

It has often been pointed out that Japan's economic prosperity depends upon its ability to find markets for manufactured articles and that the American market has been in the main an outlet for its raw materials. The effort of Japanese manufacturers to cultivate the American market has been opposed by competing American interests with such success as to have awakened considerable apprehension and some resentment in Japan. It is noteworthy that Japanese tariffs against competitive American manufactures also are high. In a few instances arrangements have been made for quota limitations but no reciprocal trade agreement has been negotiated.

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[19] Wheeler-Bennett, J. W. and Heald, Stephen, *Documents on International Affairs,* 1934, 468.

[20] Wright, P. G., *The American Tariff and Oriental Trade,* 61.

[21] *Far Eastern Survey,* May 26, 1937, 123–124.

Japan has not protested officially against American tariff rates but in 1930, when the Hawley-Smoot act was passed by Congress, objections were raised by Japanese merchants who were believed to be expressing the attitude of their Government. Little if any effect upon the proposed rates followed the protest.[22] In 1935 agitation against an increasing inflow of Japanese cottons led to an executive order of May 21, 1936 raising rates on the bulk of these goods an average of 42%. It was difficult to comprehend the solicitude of American interests in this matter, since the amount of Japanese cotton involved was but 36,000,000 square yards in 1935 as against domestic production of between 7,000,000,000 and 8,000,000,000 square yards. The capacity of a single industrial group to endanger general commercial relations was apparent in view of a favorable American export balance of $50,000,000.[23]

American business interests were unfavorably affected by the Japanese Oil Control Law of 1934, effective July 1, 1936, whereby all oil companies were required to maintain in storage at least a six months' supply.[24] The Automotive Industry Control Law of 1936 also had an injurious effect, since it forbade foreign firms, among which Ford and General Motors were dominant, to expand their then existing facilities.[25]

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[22] Wright, P. G., *op. cit.,* 70–84.

[23] *Far Eastern Survey,* June 3, 1936, 122–123.

THE UNITED STATES AND THE SINO-JAPANESE CONTROVERSY, 1933–37

Even before inauguration, President-elect Roosevelt made it clear that he would maintain his predecessor's policy respecting Japan's imperialistic program in China. On March 14, 1933 Secretary Hull stated that the Government would co-operate with the League's Advisory Committee set up under the resolution of February 24, and Hugh R. Wilson, the American representative on the committee, declared that the nonrecognition doctrine would continue to be effective.[26]

It has been suggested by many observers that the Roosevelt administration, while using more conciliatory language and writing fewer statements, has taken more positive action looking toward ultimate intervention in the Far Eastern "mess" than its predecessor. The recognition of the Soviet Union on November 16, 1933, the program of naval building, the encouragement of air transport across the Pacific, and the execution of naval maneuvers in the waters west of Hawaii, appear to represent a theory of national defense that goes beyond the preservation of American territorial integrity.[27]

Foreign Minister Hirota addressed a personal message of friendship to Mr. Hull on February 21, 1934 in connection with the accrediting of Hirosi Saito as Japan's new ambassador. In it he said, *inter alia:* [28]

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[24] *Far Eastern Survey,* August 12, 1936, 177.

[25] *Ibid.,* 177.

[26] Willoughby, W. W., *The United States and the Sino-Japanese Controversy,* 501–502.

[27] Bisson, T. A., *op. cit., Foreign Policy Reports,* XII, No. 22, 273.

> I firmly believe that viewed in the light of the broad aspect of the situation and studied from all possible angles, no question exists between our two countries that is fundamentally incapable of amicable solution. I do not doubt that all issues pending between the two nations will be settled in a satisfactory manner, when examined with a good understanding on the part of the other's position, discussed with an open mind and in all frankness, and approached with a spirit of co-operation and conciliation.

Secretary Hull's reply was equally friendly, affirmed his belief in the efficacy of pacific processes, and stated his readiness to receive "any suggestions calculated to maintain and to increase that friendliness and cordiality which have constantly marked since the conclusion of our first treaty the relations between our two countries." [29]

The reaction of the American Government to Eiji Amau's statement on the policy of Japan in East Asia,[30] which came on April 18, 1934 with abruptness in view of Mr. Hirota's very recent message, was prompt and unambiguous. It is worth noting that on April 27, prior to Mr. Hull's statement, the Japanese Government, in notes to France, Great Britain and the United States, made official the far-reaching pretensions of the informal Amau statement, without referring to the latter. These notes, which were apparently by way of being a rejoinder to the Chinese repudiation of Mr. Amau's declaration, after remarking that "Japan has not infringed the independence of China nor damaged her interests," that it "sincerely desires to preserve the territorial integrity of China," and "is observing scrupulously all the treaties and agreements in force concerning that country," said:[31]

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[28] Department of State, *Press Releases,* March 24, 1934, 161; Wheeler-Bennett, J. W. and Heald, Stephen, *op. cit.,* 465.

[29] *Press Releases, cit.,* 162; Wheeler-Bennett and Heald, 466–467.

[30] See *infra,* p. 288.

> Nevertheless, Japan can not remain indifferent in face of possible intervention by a third party which, on any pretext whatsoever, is prejudicial to the maintenance of law and order in East Asia, where Japan, if only in view of her geographic position, has interests of vital importance. Consequently she can not afford to have the question of China exploited by any third party for the execution of a selfish policy, which does not take into consideration the above-mentioned circumstances.

Secretary Hull's statement of April 30, 1934, given by Ambassador Grew to Mr. Hirota, reaffirmed the position of the United States. It declared that position to be founded on bilateral and multilateral treaties, to certain of which Japan, as well as China and other States, was a party. Those treaties would not be modified or terminated by the United States by other than recognized procedures. Moreover:[32]

> In the opinion of the American people and the American Government, no nation can, without the assent of the other nations concerned, rightfully endeavor to make conclusive its will in situations where there are involved the rights, the obligations, and the legitimate interests of other sovereign States.

This statement did not call for a reply and no reply was made by the Japanese Government.

[31] Wheeler-Bennett, J. W. and Heald, Stephen, *op. cit.,* 1934, 475.

[32] Department of State, *Press Releases,* May 5, 1934, 245; Wheeler-Bennett, J. W. and Heald, Stephen, *op. cit.,* 1934, 476–477.

The so-called "autonomy movement" regarding north China which failed to flower in November 1935, as anticipated,[33] brought from Secretary Hull a statement to the press on December 5 which indicated that he was closely observing events:[34]

> There is going on in and with regard to north China a political struggle which is unusual in character and which may have far-reaching effects . . . whatever the origin, whoever the agents, be what they may be the methods, the fact stands out that an effort is being made—and is being resisted—to bring about a substantial change in the political status and condition of several of China's northern provinces. . . .
>
> In the area under reference . . . there are located, and our rights and obligations appertain to, a considerable number of American nationals, some American property and substantial American commercial and cultural activities. . . . This Government . . . continues to bespeak respect for the provisions of treaties solemnly entered into. . . .

Senator Key Pittman of Nevada, chairman of the Senate Committee on Foreign Relations, spoke vigorously and at length in criticism of Japanese policy in the Senate on February 10, 1936.[35] He repudiated a statement by Ambassador Saito comparing Japan's Asiatic policy with the Monroe doctrine and declaring that the Nine Power Treaty was "a Monroe doctrine applicable to China." He took Vice Admiral Takahashi severely to task for threatening to extend the cruising radius of Japan's navy "unless America renounces her naval policy aimed at the expansion and protection of her foreign trade." He asserted that "there is no open door in Manchuria—to us! American bankers, importers, and businessmen have been run out of Manchuria and replaced by Japanese," and expressed the belief that "the door of China is to be closed to us, even if war is necessary to accomplish it."

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[33] See *infra,* p. 87.

[34] Department of State, *Press Releases,* December 7, 1935, 487–488.

[35] *Congressional Record,* February 10, 1936, 1703–1706.

Chester H. Rowell, editor of the *San Francisco Chronicle*, one of the best-informed American publicists, attacked even more trenchantly the north China activities of Japan:[36]

> Japan has done nothing but break five separate treaties and many reiterated promises and defy the known opinion of the world. Its title has no basis but lawless force and broken pledges. . . .
>
> The case of north China is . . . much more flagrant than that of Manchuria. These provinces are indubitable parts of China whose territorial integrity Japan is under engagement to protect, and Peiping is its historic capital. . . . Whatever Manchuria may be, this is China. . . .

It is believed that these views were held widely throughout the United States. American sympathy was with China, and Japanese repudiation of designs upon China's territorial and administrative integrity was discredited, as were the Japanese arguments that the warfare was provoked by China's attitude of non-co-operation. This general sympathy was not the product of subtle Chinese propaganda but resulted from a combination of traditional respect and friendship and a knowledge of the superior military power of Japan, competent to deal with impunity with its comparatively weak neighbor.

[36] *China Weekly Review*, July 25, 1936, 266–267.

XV. THE BRITISH POSITION

China and Great Britain

British policy toward China has differed from that of the United States in several respects, notably in that Great Britain, however much it may have favored the Open Door and the integrity of China, has actually participated in the seizure of Chinese territory and the demarkation of foreign spheres. Its economic interests and its trade also have been much greater than those of the United States. The value of its investments in China and Hong Kong was authoritatively estimated, as of 1930, at $1,200,000,000 (gold).[1] This sum is far greater than that invested in China proper by the nationals of any other State and is six times as great as the American investment. The China trade of Great Britain and Hong Kong was, until 1932, greater than that of any other country, except for occasional years when it was exceeded by that of Japan. Since that year it has been exceeded by that of the United States. In 1936 British trade, including that of Hong Kong, totalled 18.85% of China's total trade, which is to be compared with 23.03% for the United States, 15.37% for Japan, and 10.75% for Germany.[2]

As early as June 30, 1925 the British Parliament, following America's lead, passed an act to apply Boxer Indemnity payments to educational and other mutually beneficial purposes. Five years later (June 19, 1930), an agreement was reached with China for the application of payments accruing since December 1922 and of subsequent payments primarily to railway construction and secondarily to education. China agreed that the railway materials would be purchased in the United Kingdom.[3] To this arrangement must in part be credited the completion of the Canton-Hankow Railway.

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[1] Remer, C. F., *op. cit.,* 404–405.

[2] For trade statistics since 1912, see Field, F. V., *Economic Handbook of the Pacific Area,* 424; for 1936, see the *People's Tribune,* April 16, 1937, 138.

The relative decline of British trade with China, exclusive of Hong Kong trade, from first to fourth place, coupled with British anxiety over Japanese moves likely to affect the "Open Door," prompted a British proposal, in February 1935, of an international loan to the Chinese Government.[4] Nothing came of this proposal. Later in the year the British Government sent to China Sir Frederick Leith-Ross, economic adviser to the British Treasury, to investigate ways and means of improving the British position. During his stay the Chinese Government, on November 3, 1935, abandoned silver as the basis of the currency and substituted a managed paper system.[5] In 1936 arrangements were made to provide credits for British traders by governmental guaranties to exporters.[6] British firms in 1937 received the contracts for new systems of water works and trolley-busses at Canton.[7] This series of moves was climaxed by the recent announcement of loans totaling

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[3] Toynbee, A. J., *Survey of International Affairs,* 1930, Part IV, China, 21–25. Interesting evidence of better feeling was an agreement of June 20, 1929, for the sending of a British Naval Mission to assist in the training of the Chinese Navy (*Pacific Affairs,* August, 1931, 692). For account of British relinquishment of territorial controls, see *infra,* 155*ff*.

[4] *Current History,* May, 1935, 223.

[5] *Ibid.,* December, 1935, 329.

[6] *Christian Science Monitor,* November 3, 1936.

[7] *Far Eastern Survey,* June 23, 1937, 142.

$35,000,000 (U.S.) by the British and Chinese Corporation for railway building, and of an "agreement in principle" for the flotation in London of a loan of £20,000,000.[8]

JAPAN AND BRITAIN

From 1902 until 1923 Japan and Great Britain were allies.[9] Since the termination of the alliance at the instance of Canada and the United States there have been references by leading publicists and statesmen of both countries to the desirability of a new alliance.[10] Although nothing has come of these suggestions, Sir Austen Chamberlain stated in the House of Commons on November 28, 1928 that:[11]

> . . . the two governments [Great Britain and Japan] have agreed informally that the close contact which they desire to maintain can best be promoted and developed by constant communication and consultation between their respective ministers at Peking. The two ministers, being each fully informed of the views of his colleague's government in regard to every new problem as it arises, will then be in a position to consider whether a common course of action is desirable or not, and if not, to understand and explain the reasons to their governments. . . . Similar conversations and consultation take place between His Majesty's minister and ministers of other powers at Peking.

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[8] *New York Times,* August 6, 1937.

[9] The alliance was terminated on August 17, 1923; Hudson, M. O., *International Legislation,* I, 779–781; Brebner, J. Bartlett, "Canada, the Anglo-Japanese Alliance and the Washington Conference," *Political Science Quarterly,* L (March 1935), 45–58.

[10] Kamikawa, H., "An Anglo-Japanese Agreement," *Contemporary Japan,* V, December, 1936, 343–354.

[11] *Parliamentary Debates,* House of Commons, Fifth Series 223, November 28, 1928, col. 395.

So long as Japan was useful as a bulwark against the Soviet Union and was content to confine its imperialistic endeavors to Manchuria, British acquiescence in its assumption of a major role in Far Eastern affairs was easily secured. Inevitably, however, Japan was destined to challenge British predominance in the economic exploitation of China. Great Britain was aligned with the United States in support of the Open Door doctrine in a broad sense, whereas Japan was aiming at the control of Chinese economic development, a policy in contradiction to the Open Door. Moreover, Canada was by force of its geographical position closely linked to the United States.[12]

Aside from its relations with respect to China, the United Kingdom has in the past decade been at odds with Japan over Japanese competition with British textiles. Between 1927 and 1933 the total British export of cotton textiles decreased 50%, or more than 2,000,000,000 square yards. During that period the Japanese export increased 50%, or 700,000,000 square yards. Moreover, whereas in 1913 England supplied 97.5% of India's imports of cotton cloth and Japan supplied but 1%, in 1931 England supplied 49% and Japan 44%. Meanwhile the manufacture of cotton thread and cloth in India had developed rapidly and Indian factory-owners, with some 9,000,000 spindles to keep turning, were themselves deeply concerned over competition from Japan.[13]

Although British policy has, until recently, in general opposed the efforts of the British cotton industry to obtain protection in British colonial markets, this policy has been found unsuited to India, where the cotton industry is strong but is feeling severely the competition of Japanese factories. The latter had redoubled efforts to sell in India when the Chinese boycott cut their exports to China in half. Japanese competition lay in the type of cottons that India produced, whereas that of England was in higher-priced types not extensively manufactured in India. Thus the recent tariff action of India against Japan is in the main an expression of Indian rather than of British policy.

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[12] T., "Canada and the Far East," *Foreign Affairs,* XIII (1935), 388–397.

[13] Memorandum, American Council, Institute of Pacific Relations, September 15, 1933; Lawrence, O. L., "Competition in the World Textile Market," *Pacific Affairs,* VII (1934), 169–180.

In June 1933 India raised its tariff on cotton piece goods of non-British origin from 50% ad valorem to 75%, leaving the tariff on British cottons at 25%. This action aroused bitter resentment in Japan, which was directed less at the Indian than at the British Government. A retaliatory boycott was declared against Indian raw cotton by the Japan Cotton Spinners' Association, and the Economic Federation of Japan even advocated a boycott against Australian woolens as one form of pressure.

The action of India was the denunciation of its commercial convention of 1904 with Japan, a step permitted by the terms of the convention upon six months' notice. The Indian Government, however, invited Japan to confer at Simla in October 1933, and the invitation was accepted. At the conference India agreed to reduce its tariff to the former rate of 50% and to import 125,000,000 square yards of Japanese cotton piece goods annually; also to import additional amounts conditional upon sales of raw cotton to Japan. A new convention, effective for three years, was signed at London, July 12, 1934.[14]

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[14] *Japan Year Book,* 1934, 186–188.

This settlement was not wholly acceptable either to the Japanese manufacturers or to the poorer people of India, to whom the cheaper Japanese goods were a boon. The issue in the case is especially difficult to deal with from the standpoint of economics—if one may use the term. The phenomenal rise of the Indian cotton industry is evidence that it is an economic one for India. Such an industry the economist would like to see preserved. Yet the Japanese, lacking raw cotton, but with newer machinery, an inflated currency and greater managerial experience, were able to undercut a lower-labor-cost country like India. In spite of the Simla-London agreement, Japanese cotton exports to British India in 1935 exceeded British by 15,000,000 square yards.[15]

British measures to cope with Japanese competition extended throughout the Empire. Indeed, at a conference in London in February 1934, the British negotiators proposed that Japan and the United Kingdom divide the textile markets of the world between them on the basis of approximately three to two in favor of Great Britain. The Japanese delegates declined the proposal.[16] The British Government imposed a quota scheme upon imports into the Crown colonies, in some cases against the wishes of British merchants in the colonies.[17] The Governments of some members of the British Commonwealth of Nations took similar action, which led in some instances to acrimonious editorial comment on both sides.[18]

[15] *Far Eastern Survey,* June 17, 1936, 134.

[16] *Japan Year Book,* 1934, 188–189.

[17] *Far Eastern Survey,* December 22, 1937, 286.

[18] Documents on negotiations with Canada in *Contemporary Japan,* IV (December, 1935), 480–484; V (March, 1936), 633–635; on those with Australia, V (September, 1936), 339–341; (December, 1936), 512–513; (March, 1937), 700–703.

The United States is not the only country in the Pacific to exclude Japanese laborers; all the British Dominions take the same action though by different methods.[19] Canada's immigration act of 1910–24 empowers the Governor General in council to prohibit the entrance into Canada "of immigrants belonging to any specified class or nationality" for several named reasons, including their inability "to become readily assimilated and to assume the duties and responsibilities of Canadian citizens within a reasonable time after their entry."[20] Under the authority of this act orders in council strictly regulate and limit the number of Asiatic immigrants. Chinese, except the usual exempted classes, are denied entrance by a special act. Japanese laborers, however, are still admitted under a Gentlemen's Agreement, first made in 1908, which now restricts the number of Japanese immigrants in any one year to 150.

New Zealand restricts Oriental immigration under the authority of the act of 1920 which provides "that no person other than a person of British birth and parentage shall . . . enter into New Zealand unless he is in possession of a permit to enter."[21] The granting of the permit remains an administrative matter in the hands of the New Zealand officials.

It is the Australian immigration legislation, however, which has particularly attracted the attention of other countries.[22] The "white Australia policy" is enforced by the well-known dictation test; that is, the would-be immigrant must write down from the dictation of an immigration officer at least 50 words in a prescribed language. This is not a test of literacy but a method of exclusion. It is not intended that the test shall ever be passed; the officials may administer it as they wish. It was instituted and has been maintained to exclude Asiatic immigrants. But the immigration act is believed to have the advantage that in its wording it does not discriminate against any race or nation. In fact, it is sometimes used to exclude undesirable Europeans. The discrimination lies entirely in the method of the enforcement of the act. A series of Gentlemen's Agreements, moreover, tempers the apparent severity of the act, for these provide that students, merchants and tourists from Japan, China, India and a number of additional countries shall be admitted without the necessity of submitting to the dictation test.

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[19] "Legislative Aspects of Asiatic Migration," prepared by the International Labor Office, Condliffe (ed.), *op. cit.,* 454–460; see also Wilson, G. G. and Wynne, E. C., *Immigration Laws; Australia, Canada, New Zealand, Japan* (Institute of Pacific Relations, 1927).

[20] Condliffe (ed.), *op. cit.,* 455. This provision is found in Art. 38c of the Canadian Immigration act of May 4, 1910, as amended by the act of June 6, 1919 (*Statutes of Canada,* 1910 (9–10 Edward VII), I, Chap. 27, 205*ff.*: *ibid.,* 1919 (9–10 George V), I, Chap. 25, 91*ff.*).

[21] Art. 5 of Act to amend the immigration restriction act, 1908, November 9, 1920 (*New Zealand Statutes,* II, George V, 1920, 78*ff.*).

The "white Australia policy" in its international aspect has caused a measure of resentment among well-informed Japanese, and in Australia a widespread, latent fear of Japan.[23] The Japanese who know of the Australian immigration regulations regard them as an expression of a "dog-in-the-manger" policy, since the

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[22] The immigration act, 1901–25 (*Australia, Commonwealth Acts*, 1925, XXIII, 87*ff*.). See Wilson, G. G. and Wynne, E. C., *op. cit.*, 1–16; "Legislative Aspects of Asiatic Migration," Condliffe (ed.), *op. cit.*, 454; Charteris, A. H., "Australian Immigration Laws and their Working," Condliffe (ed.), *op. cit.*, 483–488.

[23] An excellent and authoritative summary of the situation is given by Piesse, E. L., "Japan and Australia," *Foreign Affairs*, IV (1926), 475–488; see also "The White Australia Policy," *Foreign Affairs* (October 1925), 97–111; Roberts, S. H., "Australian View of Pacific Relations," *Institute of Pacific Relations, Proceedings, etc.*, 1925, 63–65. The standard history of the subject is, Willard, Myra, *History of the White Australia Policy*.

6,000,000 or 7,000,000 Australians, they claim, can not occupy the entire island continent and will not let others do so. A leading Japanese daily comments:[24]

> Is not the principle of white Australia contrary to the spirit of justice, liberty and universal brotherhood? We wonder if the justice and liberty as understood by some Britons is confined to the Anglo-Saxon race and does not mean justice and liberty for all mankind.

GREAT BRITAIN AND THE SINO-JAPANESE CONTROVERSY, 1933–37

As in Washington, so in London, the Amau statement of April 18, 1934 was received with incredulity and resentment. Sir John Simon, foreign secretary, made a friendly inquiry at Tokyo through Ambassador Sir Francis Lindley, in which Foreign Minister Hirota was reminded of the Nine-Power Treaty and of the inability of the British Government to admit the right of Japan alone to decide whether any particular action, such as the provision of technical or financial assistance, promoted a danger to China's peace and integrity. Sir John informed the House of Commons on April 30, 1934 that Mr. Hirota had assured Sir Francis Lindley that Japan would observe the treaty and that it continued to support the Open Door policy.[25]

The visit of Leith-Ross to China in 1935[26] was preceded by a short sojourn in Japan, during which an effort was made to reach a basis of Anglo-Japanese cooperation in regard to China. The British financial expert found a serious obstacle in the Osaka cotton spinners who resented British restrictions on their trade; he also found that the Japanese Government stood by the Amau statement and insisted upon controlling the economic exploitation of north China. In short it was made clear to him that to Tokyo co-operation meant that third states must accept Japanese leadership in China and be content with such participation in economic relations with China as the Japanese Government might permit. It is probable that intimations were given that the Japanese interpretation of co-operation might be liberalized if the United Kingdom would consider revival of the Anglo-Japanese alliance.[27]

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[24] *Hochi,* quoted in the *Japan Times Weekly,* June 3, 1922, 570.

[25] Wheeler-Bennett, J. W. and Heald, Stephen, *op. cit.,* 1934, 475–476.

[26] See *supra,* 195.

The fact that China nationalized silver and established a managed currency during the Leith-Ross visit was extremely irritating to the Japanese who believed, in spite of British and Chinese denials, that this step was recommended by Leith-Ross. As one writer phrased it: "This reported financial aid looked much more like British acquisition of the power to guide Chinese financial circles than like Anglo-Chinese economic co-operation."[28] Apparently Japanese opinion was not asked, though it is inconceivable that Chinese ideas on the need of currency reform were unknown in Tokyo.

An unofficial statement which included the following sentences was issued by the Japanese foreign office on November 9, 1935:[29]

> . . . In view of the close relations hitherto maintained between China and Japan, the Nanking Government, in taking so momentous a step, should have previously entered into communication with the Japanese Government.

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[27] Kamio, Shigeru, "Britain and Japan in China," *Contemporary Japan,* IV (1935), 344–350.

[28] Okabe, Saburo, "Sir Frederick Leith-Ross in the Far East," *Contemporary Japan,* V (1936), 188–203.

[29] Okabe, *op. cit.,* 196.

> That it failed to do so not only casts a dark shadow across the path of the silver measure, but is a source of regret to the Japanese Government.
>
> . . . Both Great Britain and China . . . have officially denied that there is any connection between the silver program and a British loan. For China, Japan's friendly neighbor, to carry out monetary reforms on a large scale, it must first have determination to do so with its own resources. For it to seek foreign loans to assist in attaining economic stability must inevitably end in failure, for such loans would in the end constitute a burden and only augment the financial difficulties of China.

A more strongly-worded protest was issued by the Japanese ministry of war. British efforts for an international loan in which Japanese bankers should take part were fruitless. The Chinese banks in north China were ordered by the Hopei-Chahar Council to retain their silver holdings. However, the comparatively successful working of the new currency scheme was admitted in Japan.[30]

Sir Samuel Hoare, British foreign secretary, took note of the "autonomy movement" in north China in a speech in the House of Commons on December 5, 1935. He stated that the British representative in Tokyo had informed the Japanese Government of British concern and had been told that the movement was purely Chinese. He regarded it as unfortunate that events should have occurred that might lend color to the belief that Japanese influence was being exerted to shape Chinese internal political development.[31]

Rumors that Britain and Japan were contemplating an understanding for co-operation in respect to China

[30] Okabe, *op. cit.,* 196–201.

[31] *Parliamentary Debates,* House of Commons, Fifth Series, 307, December 5, 1935, cols. 337–338.

were published in April 1937.[32] Prince Chichibu was then visiting in England. An editorial writer in the London *Times* declared that:[33]

> Great Britain is fully prepared to recognize the obvious fact of Japan's "special position" in regard to China, but she cannot view with sympathy the attempts to consolidate that position by methods which have—without the approval of a wiser and more foresighted element in Japan—too often been employed during the last six years. . . .
>
> . . . Once her deeds have proved that her intentions toward China are as honorable as she protests they are, Japan will not lack sympathy and assistance from this country which has long been bound to that other island empire by ties of mutual friendship and respect. . . .

A proposal by Premier Lyons of Australia at the London Imperial Conference in June 1937 that the British Dominions seek to bring about a general pact among the Pacific states received no serious consideration.[34] And when fighting began in north China Foreign Secretary Eden announced that he had informed the Japanese Government that, "as long as the present situation in north China persists, it would not seem opportune to open the conversations to which His Majesty's Government were looking forward."[35]

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[32] *New York Times,* April 22, 1937.
[33] *Ibid.,* May 4, 1937.
[34] *Ibid.,* June 3, 1937.
[35] *Ibid.,* July 22, 1937.

XVI. THE POSITION OF SOVIET UNION

China and the Soviets

The Soviet Union exerted a very great influence in China and was exceptionally popular during the period from 1919 to 1927, Soviet prestige being at its height from the middle of 1925 to the middle of 1927. In the latter year Chiang K'ai-shek broke with his former advisers, and at Peking also the Soviet representative became *persona non grata.* Diplomatic relations were severed and were not renewed until 1932.

The immense strength and influence which the Soviet Union exerted in China for some few years were due to the Soviet Union's apparently voluntary renunciation of all its unequal treaties and to its espousal of China's cause both in domestic and in foreign relations. Close relations developed between the Third International and the Nationalist Party, or Kuomintang.

The influence of the Soviet Union was exerted through a virtual alliance of the Russian Communist Party with the Nationalist Party in Canton. Dr. Sun Yat-sen, the leader of the Kuomintang, was in serious need of outside support and in 1923 sent to both the United States and Great Britain to obtain military officers to organize the Nationalist army on a modern basis. Only after his failure did he turn to the Soviet Union which then supplied help of nearly every kind. The Soviet cause was aided by the Chinese Communist

Party which was admitted into the Kuomintang in 1924. While Dr. Sun Yat-sen believed that the communists would be converted to the principles of the Kuomintang, and while they did add numbers and enthusiasm to the Nationalist movement, they retained their communist beliefs and became an effective agency for the infiltration of Bolshevik ideas into China.

The Soviet Union was unquestionably of very great assistance to the Nationalist party at that time. It provided effective advisers, munitions of war, plans for party and army reorganization and methods of modern propaganda. Of the many advisers, the most influential were Michael Borodin, who is now known to have taken his orders directly from Moscow, and General Galens, (Vasili Bluecher), a skillful strategist. The Kuomintang was given the same effective form of organization as the Bolshevik party in Russia, and the army was placed under the political control of the party. The communist methods of propaganda were adapted for use among students, workmen and peasants —for a time with almost startling success. The brilliant military achievements for the Nationalist forces in their northern advance beginning in July 1926 furnished visible evidence of the effectiveness of Soviet co-operation.

From the beginning the conservative and moderate wings of the Kuomintang had disapproved of communism and of the influence of the Russians. To General Chiang himself the Soviet liaison had been an opportunistic device to gain power. Faced in 1927 with the choice between continuing a relationship which was undermining his authority and allying himself with the landlord-bankers of Shanghai and Hangchow, he cast off the distasteful, though helpful, Borodin and Galens and began the long contest with the Chinese Communist armies that was only terminated at the end of 1936 by the dramatic *coup d'état* of General Chang Hsueh-liang at Sian.[1]

The attitude of the Union of Soviet Socialist Republics toward Chinese nationalism did not extend to Outer Mongolia. Toward that vast and sparsely peopled tribal vassal of China the Soviets' policy was similar to Tsarist Russia's, one designed to encourage autonomy and a pro-Russian inclination.[2] In the general agreement of May 31, 1924 between China and the U.S.S.R., Mongolia was recognized to be "an integral part of the Republic of China." But at that time Chinese influence in the region was nil while that of the Soviet was paramount. This change had been brought about through collaboration between a Mongol nationalist organization and Russian military forces, as a by-product of the Bolshevist revolution. Russian advisers assisted in drafting a constitution for Outer Mongolia, which was proclaimed in November 1924. In it the country was declared to be "an independent People's Republic in which all power belongs to the laboring people."[3]

Since 1924 the "Young Mongols" have controlled the political life of Outer Mongolia and the old feudal princes have been deprived of authority. The Soviet Union alone has enjoyed diplomatic and consular relations with the country. A recent writer has drawn a tentative contrast between the policies of Tsarist Russia and of the U.S.S.R.:[4]

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[1] For the decline of Russian influence in China, see Toynbee, A. J., *Survey of International Affairs,* 1927, 331–365; *China Year Book,* 1928, 1349–1401; Isaacs, H., *Five Years of Kuomintang Reaction, passim.*

[2] Friters, G. M., "The Prelude to Outer Mongolian Independence," *Pacific Affairs,* X (1937), 168–189.

[3] Constitution in *China Year Book,* 1926, 795–800.

> . . . the Tsarist intention having evidently been to maintain the Mongols in such a state of suspended animation that neither the Mongols nor any other country could accomplish any real change in the situation. The Soviet relationship has in many respects been similar in form; but it may be that its aim has been to give the Mongols a breathing space in which to create for themselves a genuine independence, on the assumption that such a state, out of fear of an imperialist Japan and suspicion of a non-revolutionary China, would necessarily remain friendly toward the Soviet Union.

A protocol of mutual assistance embodying automatic military obligations was entered into by the U.S.S.R. and Outer Mongolia on March 12, 1936, formulating a "gentlemen's agreement which has existed between them since November 27, 1934." In view of an official protest from Nanking the Soviet foreign office reaffirmed the Soviet Union's continued recognition of Chinese sovereignty over Outer Mongolia. Yet political relations between China and Outer Mongolia had ceased and commercial relations had become negligible.[5] The Chinese Government includes a Commission on Mongolian and Tibetan Affairs, established in 1929, the members of which are said to "have by rotation made annual observation trips to Mongolia and Tibet. . . ."[6]

Bolshevist influence in the province of Sinkiang also has caused apprehension at Nanking. Trade increased between Sinkiang and the Union with the opening of Soviet consulates after 1924. In 1930 the opening of the Turkestan-Siberian railway brought Sinkiang within a hundred miles of a rail-head, stimulating trade and inducing an orientation toward the Soviet Union. An authoritative writer stated recently that "economically it [Sinkiang] can no longer be considered anything but a province of the U.S.S.R."[7] The province has been disturbed by revolts of Moslem leaders which have, according to statements difficult to verify, opened the way to political manipulation of both Chinese and Moslem militarists by Moscow.[8] The extensive program of road building in China after 1933 created the conditions for increased trade relations.

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[4] Friters, G. M., "The Development of Outer Mongolian Independence," *Pacific Affairs,* X (1937), 321; Geleta, Joseph, *The New Mongolia, passim.*

[5] Friters, *op. cit.,* 333; *China Year Book,* 1936, 21–23.

[6] *Chinese Year Book,* 1935–1936, 165.

The on-rush of the Japanese armies in 1931 and 1932 brought a change of heart at Nanking with respect to the Soviets. In 1932 at Geneva a Chinese representative suggested to Maxim Litvinov, commissar for foreign affairs, the conclusion of a nonaggression pact. This offer was declined as being premature but on December 12, 1932 notes were exchanged at Geneva between Mr. Litvinov and Dr. W. W. Yen, by which formal diplomatic relations were restored.[9] Nearly five years later, on August 21, 1937, the two States concluded a treaty of nonaggression. It contained no provision for mutual assistance but was said to have been accompanied by secret arrangements for the sale to China of large quantities of aeroplanes and munitions of war.[10]

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[7] Lattimore, Owen, in *China Year Book,* 1936, 25.

[8] Fleming, Peter, *News from Tartary; New York Times,* June 26, 1937.

[9] *China Year Book,* 1933, 655–657.

[10] *China Weekly Review,* September 4, 1937, 9; League of Nations, *Treaty Series* Reg. No. 4180.

JAPANESE RELATIONS WITH THE SOVIET UNION

Friendship toward the Soviet Union in matters of trade and commerce, and hostility toward communism, the basic principle of the Soviet state, are the dual aims often proclaimed by Japanese statesmen. The treaty which forms the legal basis for the present relations of the two countries was signed January 20, 1925. By it Japan recognized the Soviet Government and promised to withdraw its troops from Northern Sakhalin—a pledge properly fulfilled. The Soviet Union recognized the validity of the treaty of Portsmouth of 1905 and thereby Japan's special position in South Manchuria, but it was agreed that all other treaties between the two States signed before 1917 should be reconsidered at a subsequent conference. The Soviet Government also promised to give Japan very extensive privileges in Northern Sakhalin for the exploitation of oil and coal, and added that it was "willing to grant Japanese subjects, companies and associations concessions for the exploitation of minerals, forests and other natural resources in all the territories of the Union of Soviet Socialist Republics." The question of the debts due from the former Russian Government was to be adjusted in subsequent negotiations but it was stipulated that Japan should enjoy as favorable terms as any other country. As to propaganda, a mutual pledge was given limited to official or semi-official acts. Each State promised [11]

> to refrain and restrain all persons in any governmental service for them, and all organizations in receipt of any financial assistance from them, from any act overt or

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[11] League of Nations, 34 *Treaty Series,* 32–42; *China Year Book,* 1925, 788–793.

covert liable in any way whatever to endanger the order and security in any part of the territories of Japan or the Union of Soviet Socialist Republics.

The promised concessions for oil and coal in northern Sakhalin were formally granted December 14, 1925 [12] and about a year later a timber concession covering 2,250,000 acres in the maritime province of eastern Siberia. A convention regulating the right of Japanese to fish in Soviet waters in eastern Asia was signed at Moscow, January 23, 1928 and ratified at Tokyo May 22 of the same year.[13] Although difficulties have attended the execution and revision of the arrangements from time to time they are still in operation. In 1936 a renewal of the fishing concession for eight years was about to be granted when the publication of the German-Japanese anti-communist pact caused the Soviet foreign office to reduce the term of renewal to one year.[14] Another one-year renewal was granted at the end of 1937.[15]

The Japanese intervention in Manchuria produced apprehension at Moscow which increased as the Japanese forces penetrated deeply into Inner Mongolia. Large re-enforcements were sent to eastern Siberia and a fleet of submarines and an air force were stationed at Vladivostok.[16] A new railway from Taishet on the Trans-Siberian line west of Lake Baikal to Komsomolsk,

[12] Toynbee, *op. cit.*, 1926, 503.

[13] League of Nations, 80 *Treaty Series*, 341.

[14] *New York Times*, December 24, 1936.

[15] *Ibid.*, December 22, 1937.

[16] Parry, A. and Kiralfy, A., "Soviet Submarines in the Far East," *Pacific Affairs*, X (March, 1937), 31–42; Betts, T. J., "The Strategy of Another Russo-Japanese War," *Foreign Affairs*, XII (1934), 593–603. The Japanese minister of war, General Sugiyama, told the House of Peers on February 22, 1937 that the Soviet Far Eastern army then stood at 15 divisions, with 1,100 tanks.

Nikolaievsk, Habarovsk and a new port on the Sea of Okhotsk, was reported ready for operation in November 1936.[17] The pace of double-tracking the Trans-Siberian Railway was increased and the process was completed in December 1937.[18] The Soviet's anxiety as to being drawn into war with Japan was, however, revealed in the effort to obtain a nonaggression pact with that country. First suggested to Mr. Yoshizawa at Moscow on December 31, 1931, the Soviet proposal was renewed at Tokyo in October 1932, and to Mr. Matsuoka at Moscow on November 4, 1932. Apparently the U.S.S.R. was prepared to pledge its good faith by recognizing Manchoukuo. Foreign Minister Uchida stated to the Diet on January 21, 1933 that Japan had no thought of aggression against the Soviet Union but believed that, in view of the Soviet-Japanese treaty of 1925 and the Pact of Paris, there was no need for a convention of nonaggression.[19] According to a recent writer, "the Soviet Union is now busy carrying on its invasion of the Far East by thought, and so long as this invisible invasion persists, the Soviet leaders will have to be told that Japan cannot accept the . . . nonaggression pact. . . ."[20]

Soviet-Japanese relations were ruffled by the Soviet-Outer Mongolia mutual assistance protocol of March 12, 1936, the German-Japanese anti-communist pact of November 25, 1936 and the Sino-Soviet treaty of nonaggression of August 21, 1937.[21] Stalin declared in

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[17] *New York Times,* November 28, 1936.

[18] *Ibid.,* December 20, 1937.

[19] Pollard, R. T., "Russo-Japanese Tension," *Annals of American Academy,* 175 (September, 1934), 101–109; *Japan Year Book,* 1934, 191–192.

[20] "W," "Japan-Soviet Misunderstanding," *Contemporary Japan,* V (December, 1936), 427.

[21] See *infra,* p. 303, 304, 307.

March 1936 that the Soviet Union would support the independence of the Mongolian People's Republic with military force if Japan should venture to attack it.[22] Testimony at the trials of Soviet nationals accused of treasonable activities in Siberia indicated that Japanese conspirators, among them a diplomatic officer, had participated in the intrigue.[23] The border clashes which kept the peoples of the two countries in a state of tension, as well as the sale of the Chinese Eastern Railway, are dealt with elsewhere.[24] Although Ambassador Yurenev on leaving Tokyo on May 15, 1936, stated that "there are no problems between Japan and Russia that cannot be solved peacefully," the two countries appeared to be far from the "spirit of mutual understanding" which he saw as the condition of peaceful settlement.[25]

[22] See interview with Roy Howard in newspapers of March 4, 1936.

[23] *New York Times,* April 3, 1937.

[24] See Chapter VI.

[25] *New York Times,* May 17, 1937.

XVII. THE POSITIONS OF FRANCE AND GERMANY

China and France

French interests in China while not large are distributed throughout the country. They are particularly important in the huge province of Yunnan, immediate neighbor to French Indo-China.[1] The railway, 530 miles long from Haiphong to Kunming (Yunnanfu), built by the French and held on an 80-year lease tenable until 1990, is the only easily accessible route from the China seaboard into Yunnan and operates as the principal instrument by which the province has been made a French sphere of influence.[2] Nothing may be transported over the railway without French permission; consequently no governor of Yunnan who is not *en rapport* with the French can import arms. French imports enjoy an advantage over other foreign articles in the cost of transport. In 1932 less than 6% of China's foreign trade was with France and French Indo-China.[3] In that year approximately 60% of Yunnan's exports and imports were French. The only foreign bank in the province is French. The principal wealth of the region is in tin and other minerals, as yet unexploited by foreign interests.[4]

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[1] The area of Yunnan is 146,714 square miles, the population 11,000,000.

[2] MacMurray, *op. cit.,* I, 453–462.

[3] *China Year Book,* 1934, 175.

[4] Burton, Wilbur, "French Imperialism in China," *Current History,* January, 1934, 428–431; Meng, C. Y. W., "Whither Yunnan—A Second Manchuria?" *China Weekly Review,* July 15, 1933, 278–280.

The French Government also regards as effective the Chinese declarations of 1897 and 1898 stating the intention not to alienate the island of Hainan and the three provinces bordering on Indo-China.[5] In 1914 the Chinese Government entered into a contract with the French Banque Industrielle de Chine for a loan of 600,000,000 francs with which to build two railways, one from the port of Yamchow in Kwangtung to Kunming (Yunnanfu), the other from Kunming to Chengtu, capital of Szechwan.[6] The contract has not yet been executed. An agreement of 1935 regulates tariffs and other trade relations between Yunnan, Kwangsi and Kwangtung on the one hand and French Indo-China on the other. Another agreement of November 1935, which became operative in June 1936, provides for linking up the air route of the China National Aviation Corporation between Canton and the southern border of Kwangtung with the Indo-Chinese line of Air France.[7] These arrangements, taken together with the French lease of Kwangchowwan, appear to maintain a French sphere of influence throughout the three southernmost provinces of China.

JAPAN AND FRANCE

Japanese relations with France have been friendly since the conclusion of the entente of 1907, which is still in force.[8] Under this agreement the two Governments, "having a special interest in having order and a pacific state of things guaranteed especially in the regions of the Chinese Empire adjacent to the territories where they have the rights of sovereignty, protection or occupation, engage to support each other for assuring the peace and security in those regions with a view to maintaining the respective situation and the territorial rights of the two contracting parties in the continent of Asia." [9]

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[5] MacMurray, *op. cit.*, I, 98, 123–124; Gidel, M. G., and Pépin, M. E., *La France dans le Pacifique, Liste des accords diplomatiques et juridiques,* 17, 18.

[6] MacMurray, *op. cit.*, II, 1099–1108.

[7] *China Year Book,* 1936, 181–183.

[8] Gidel and Pépin, *op. cit.,* 25.

Karl Radek wrote in 1932: [10]

> The attitude of France toward Japan is plain. It is determined by French hostility toward the nationalistic movement in the Orient, a movement which threatens the French position in Indo-China. It is also determined by France's hostility to the Soviet Union. French imperialism would like to see Japan strengthened in the hope that this will lead to a struggle with the Soviet Union. . . .

This conception of French policy, if true when written, has been in part outdated by the conclusion of the Franco-Soviet treaty of mutual assistance of May 2, 1935.[11] While the treaty applies only to attacks by European States, the strengthening of the Soviet Union in Europe gives it a freer hand in Siberia. Moreover, since France is primarily concerned to protect itself against Germany, any attack upon the Soviet Union, whether in Europe or in the Far East, would involve a weakening of the French position. French encouragement of an attack by Japan, moreover, to say nothing of French assistance to Japan against Russia, under the agreement of 1907, would not only be suicidal but contrary to its treaty with the Soviet Union. It will be recalled that during the Russo-Japanese War of 1904–05,

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[9] MacMurray, *op. cit.,* I, 640.

[10] "The War in the Far East," *Foreign Affairs,* X (1932), 553.

[11] *American Journal of International Law,* Official Documents, XXX (1936), 177–180.

France, though avowedly neutral, extended aid in various forms to its ally.[12] At the present juncture it would seem that its wisest strategy is to counsel the U.S.S.R. against entanglement with Japan.

After protracted negotiations, France signed with Japan on May 13, 1932 a trade convention with reference to Indo-China which Premier Saito characterized as "calculated greatly to facilitate commerce . . . and to strengthen the economic ties between the two countries." [13] A year later, on July 25, 1933, the French Government announced the annexation of nine coral islands of the Paracels (Hsisha) group lying to the south of Hainan.[14] No state had previously claimed sovereignty over the islands but both China and Japan submitted claims based upon occupation by their subjects.[15] France subsequently limited its action to six islands.

France and the Sino-Japanese Controversy

Suspicions that France was favorable to the Japanese conquest of Manchuria were expressed frequently but without acceptable evidence. They were based upon the support of Japan by the French press and upon theoretical considerations concerning the parallel interests of the two countries. The attitude of the French at Shanghai, however, was, if anything, more definitely opposed to Japanese military operations there than that of the other interested governments and contributed notably to the restoration of the *status quo* in May 1932.[16]

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[12] Ishii, Viscount K., "Japan and the Franco-Russian Rapprochement," *Contemporary Japan,* III, 530–542.

[13] *Japan Weekly Chronicle,* June 9, 1932, 753.

[14] *Ibid.,* August 3, 1933, 136; *China Weekly Review,* August 12, 1933, 456–461.

[15] *Ibid.,* August 17, 1933, 198–199.

The French note in reply to the Japanese official interpretation of the Amau statement of April 18, 1934 was extremely conciliatory. It recorded with satisfaction Japan's affirmation of fidelity to the general principles of international law and to the treaties between China and other States, and expressed the conviction that if anything should occur to imperil the maintenance of order and justice in China, Japan would seek a legal solution in concert with the other states. Such a procedure, in the judgment of the French Government, was the only one that would assure an equitable and satisfying solution.[17] The French Government gave no public indication of its attitude toward the north China "autonomy movement" in 1935.

THE GERMAN POSITION

Brief reference may be made to the relationship of Germany to the Far Eastern controversy in view of the agreement between that State and Japan which purports to provide for mutual defense against the activities of the Communist International.[18] The pact was signed at Berlin on November 25, 1936 by Joachim von Ribbentrop, ambassador to the United Kingdom, and Viscount Kimitomo Mushakoji, ambassador to Germany, after negotiations extending over several years. The document contains a preamble and three short articles. It is effective for five years and is directed not at any named State but at the "Communist International (the so-called Comintern)." The signatories agree to keep each other informed concerning its activities, to confer upon measures of defense, and to co-operate closely in the execution of such measures; also to invite other States to adhere to the agreement. By a supplementary protocol of the same date provision is made for a standing commission to facilitate co-operation. The Japanese foreign office issued a statement upon publication of the agreement in which Moscow was named as the headquarters of the International. The statement declared that "Outer Mongolia and Sinkiang have already suffered from its calamitous effects while China proper is now being subjected to the depredations of the communist armies"; it further declared that in Manchoukuo and Japan there had been a marked revival of communist activity since the seventh congress of the Comintern in 1935. At that congress, the statement averred, Japan and Germany were singled out as special objects of disintegrating operations.[19]

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[16] Editorial in *The China Weekly Review,* April 16, 1932, 207, quoting the *Living Age;* also article by W. Colepepper, "Is France Backing Japan," in same, May 14, 1932, 364, quoted from *Weltbühne,* Berlin.

[17] *Documentation internationale,* I, 45; Wheeler-Bennett, J. W. and Heald, Stephen, *op. cit.,* 477–478.

[18] *International Conciliation,* No. 327, February, 1937, 164–165; *Contemporary Japan,* V (1936), 514–515; see Appendix, *infra,* p. 304.

Although it was asserted that "in connection with, or behind, this agreement there exists no other agreement whatsoever," and that "the present agreement is not directed against the Soviet Union or any other specific country," the belief was general that Japan and Germany had entered into an entente of a more far-reaching character than was expressed in the published instrument. That an arrangement should have been desired to balance the Franco-Soviet combination was apparent. It was equally obvious that there was no need of dignifying with a treaty the elementary business of

[19] *Contemporary Japan,* V, December, 1936, 515–517.

exchanging information from police files. The similar pact of November 6, 1937 between Japan, Germany and Italy strengthened the suspicion that the three states had created a common front not only against the Soviet Union but against interference by any state with their policies of aggrandizement.[20] They limited their acknowledged purpose to extermination of an ideology they knew to be feared by the democratic states in the hope of isolating the Soviet Union.[21]

In China, however, the interests of those States had since 1927 been preserved and advanced by the anti-communistic regime of the Kuomintang, which had sought their financial support against both Japan and Russia. Those interests had suffered far more from Japanese bombs and shells than from Bolshevist propaganda or military action. The invitation to the democracies to join the new triple entente against communism was not likely to be accepted. But the veiled assertion in the anti-communist pacts that the Japanese, the Germans and the Italians recognized a common interest in co-operation was significant for the restraint it imposed upon opposition to Japan in China.

The German-Japanese agreement was received cordially by the Japanese supreme command but with doubt and open criticism by members of the Diet and of the Privy Council and by important newspapers.[22] Fear was expressed that Japan had given more than it had received, in view both of Germany's naval weakness and complicated relations with other states and of the suspicions aroused by the pact. On the other hand, Japanese nationalists like Reiji Kuroda, Berlin correspondent of the magazine *Diamond*, highly approved the understanding. Mr. Kuroda wrote:[23]

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[20] *Contemporary Japan,* VI, December, 1937, 577–579.

[21] Note von Ribbentrop's reference to the sharp protest of the American Government against the resolutions of the seventh Comintern congress (*New York Times,* November 26, 1936). The usually well-informed "Augur" stated that there existed between Germany and Japan not only "an agreement to co-operate in the military domain" but also "a secret protocol for the division into spheres of influence of Netherland possessions in the East Indies" (*New York Times,* November 26, 1936).

[22] *New York Times,* November 27, December 4, 9, 10, 1936.

> War with the Soviet Union is our destiny. To carry out our policy Japan must defeat 300,000 Russians in the Far East, and we must reach an understanding with the nation that holds Russia as its mortal enemy and is powerful enough to crush it. That nation is Germany.

Treated as the culminating act in a series of militarist political maneuvers, the agreement was attacked in the Japanese House of Representatives, where Foreign Minister Arita was jeered on January 21, 1937. Kunimatsu Hamada, a leader of the Minseito, the more liberal of the two major parties, denounced army interference in domestic and foreign politics and demanded stricter discipline within the army. He declared that "the so-called diplomacy" of the Hirota cabinet "has brought foreign policy to a deadlock" and continued:[24]

> The government derives its driving force from military circles and though it professes to respect constitutional politics, its ideas are close to those who believe in strong politics with military co-operation. Such ideas are unconstitutional in Japan.

Faced by an uncompromising House, which feared that its meager powers were about to be nullified, the Hirota cabinet resigned. The attacks upon the German-Japanese pact were not renewed under its successor, nor was antipathy displayed toward the later agreement with Germany and Italy. It is difficult to avoid the conclusion that the great political parties were more concerned with their own preservation and perquisites than with the diplomacy that had linked Japan with European fascism.

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[23] *New York Times,* December 22, 1936.

[24] *Ibid.,* January 22, 1937.

Chinese opinion of the entente was naturally extremely hostile. While nothing different was expected from Japan, disappointment with Germany was keen. It was anticipated that Japanese pressure upon China would be increased.[25] China's answer to an invitation to join the entente was given in August 21, 1937, when it signed a nonaggression pact with the Soviet Union.[26] German trade with China had increased rapidly in the post-Great War atmosphere of friendship resulting from equality in treaty relations. In 1936 Germany was third among all countries in the percentage of China's foreign trade, with total sales valued at $150,000,000 (Chinese) and purchases worth $39,000,000.[27] A large German military mission was engaged in training the Chinese army and a Sino-German barter agreement was in effect under which German munitions of war and military equipment valued at $100,000,000 were in process of delivery.[28] During the first six months of 1937 Chinese imports of German goods were 14.92% of total imports, 2.32% under the corresponding period of 1936; however, Chinese exports to Germany were 9.1% of the total, an increase of 2.66% over the January-June period of 1936.[29] Thus Germany appeared to be maintaining third place in the China trade.

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[25] *New York Times,* November 27, 1936; *China Weekly Review,* December 26, 1936, 121.

[26] See *infra,* p. 307.

[27] *The People's Tribune,* April 16, 1937, 138.

[28] *New York Times,* February 12, 1937.

[29] *The Oriental Economist,* IV (December, 1937), 745.

XVIII. THE PHILIPPINES; THE NETHERLANDS EAST INDIES

The Philippines

American concern with the recent evidences of Japanese policy is not confined to China. Considerations of moral responsibility, of economic interest and of strategy combine to keep the Philippines within the range of that concern.[1] As for the Philippines itself, the question of possible moves by Japan to bring the new Commonwealth within its economic sphere of influence and the problem of devising an economic program for the prospective independent republic, are matters for serious consideration. There are influential Filipinos who believe that the independence of the Islands will not long survive if, in conformity with the Independence (Tydings-McDuffie) Act, the power of the United States ceases on July 4, 1946 to protect them from Japan.

The Independence Act, passed by Congress and signed by President Roosevelt in March 1934, allows the Commonwealth thereby created about ten years to put its political and economic house in order before American officials should leave the country and Filipino sovereignty should be recognized. Dr. Stanley K. Hornbeck, chief of the Division of Far Eastern Affairs of the Department of State at the time of writing and now Adviser on Political Relations in that Department, recently expressed the attitude in the United States in relation to the Independence Act:[2]

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[1] Recent valuable discussions of the Philippines are those of Kirk, Grayson H., *Philippine Independence;* Malcolm, George A., *The Commonwealth of the Philippines;* Dulles, F. R., *America in the Pacific;* and Clark, Grover, *Balance Sheets of Imperialism.*

> The course which is being followed with regard to the Philippine Islands clearly suggests not only that the people and the Government of the United States are not seeking to extend American political authority into and over territories and peoples in the Far East but that we are willing, when and as the need for our presence in exercise of authority ceases to exist, to give up such measures of authority as this country has been brought by circumstances temporarily to exercise. Steps are being taken, measures have been and are being devised to facilitate achievement by the Philippine Islands of an independent statehood. This effort gives rise to many problems, some of which are far from easy of solution. These problems are being given most solicitous attention, in the spirit of reciprocal good will. In this matter as in others, the American Government, representing and acting for the American people, is attempting to apply in practice the principles of the "good neighbor."

Professor J. Ralston Hayden, recently vice governor of the Philippines and the leading American authority on the subject, has written that:[3]

> The Tydings-McDuffie Act may be regarded as a measure providing for the consummation of the historic American policy toward the Philippines. On the other hand it can hardly be denied that the passage of the bill was secured and its terms, at least its vitally important economic provisions, largely dictated by American interests

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[2] Hornbeck, Stanley K., "The Official American Approach to Problems of Relations between the United States and Countries of the Far East," *Amerasia,* I (1937), 20.

[3] *Pacific Politics,* 18. (Day and Hour Series, University of Minnesota Press, March 1937.)

that sought to protect themselves from the competition of Philippine goods and Filipino labor. With these interests the public welfare of either the United States or the Philippines was secondary. Private gain was their first consideration.

During the decade of Commonwealth government the authority of the United States remains predominant in the Islands. The President of the United States is empowered to intervene in certain contingencies, to approve or disapprove certain legislative acts of specified classes, to suspend any act or ordinance, to supervise and control the foreign relations of the state, and to take other action of a sweeping character. The American Congress and Supreme Court also continue to exercise authority and the officials and citizens of the Commonwealth owe allegiance to the United States.[4] The principal representative of American control is the high commissioner who, unless called upon to exercise the powers reserved to the United States, "has only the position of a legally authorized and specially privileged observer."[5] The Independence Act also requests the President of the United States to seek neutralization of the Islands through negotiations with other States and provides for a decision upon retention or transfer of naval bases by negotiation after independence is attained.

On the political side the desirability, of an interim period between territorial and republican status lay in the opportunity thus afforded the new government to develop a program with which to reconcile economic and racial factions, and to organize purely Filipino police

[4] Public No. 127. 73rd Congress (H.R. 8573).

[5] Hayden, J. R., "The Philippines in Transition," *Foreign Affairs*, XIV (1936), 643.

and military forces through which orderly government may be preserved. It is generally believed, however, that the economic provisions of the Independence Act endanger the present economic system, thereby contributing to the difficulty of political organization. And it is feared that the coming of full statehood will be attended by economic problems impossible of solution. Thus the country appears to be faced, on the one hand, with the danger of intervention by some foreign state due to political disorder, and, on the other, with the necessity of seeking a new partnership dangerous to its independence in order to ensure an economic structure strong enough to avert a political collapse.

The Independence Act places quota limitations upon exports of Philippine sugar, coconut oil and hemp cordage to the United States. It further provides that upon independence all Philippine products shall become subject to the regular scale of tariff rates. During the last five years of the Commonwealth period an export tax rising from 5 to 25% is to be collected upon these exports at Philippine ports. The shock which these provisions portend for the economic life of the country may be realized when the figures of its foreign trade are examined. In 1935 the United States was the source of 64% of its imports and took 80% of its exports.[6] These high percentages are "explained by legislation more than by the flow of natural forces."[7] They are explained by the freedom of four-fifths of Philippine-American trade from the payment of tariffs. When that freedom ends competition from cheaper cost countries, which will have to be met, bids fair to destroy the bulk of the trade. For the United States this result will be injurious, for the Philippines it will be serious.[8] Diversification of crops and the development of industries are believed to be practicable but time and capital will be needed to bring them to appreciable proportions.

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[6] *United States-Philippine Trade* (Report No. 118, 2nd series, United States Tariff Commission, 1937).

[7] Jones, Chester Lloyd, "Cuban and Philippine Independence," *Dalhousie Review,* July, 1936, 143–144; also *United States-Philippine Trade, op. cit.,* 164.

Fortunately there is sympathy at Washington for the people of the Commonwealth and an apparent intention to implement the declaration of President Roosevelt that: "Where imperfections or inequalities exist, I am confident that they can be corrected after proper hearing and in fairness to both peoples."[9] Although there appears to be no inclination in Congress to reopen the issue of independence nor to consider dominion status for the Philippines, the President in August 1937 sent to the Islands an American delegation headed by John Van Antwerp MacMurray which formed, with a similar delegation appointed by President Quezon, a joint preparatory committee on future trade relations.[10] This committee investigated economic conditions in the Islands and prepared a report in line with plans previously made public. President Roosevelt indicated on January 11, 1938 that he would recommend a modification of the Independence Act which would permit a gradual application of American tariff duties up to the year 1960 when the full rates would be imposed. No alteration was contemplated in other provisions of the Act.[11]

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[8] Kirk, Grayson, "Whither the Philippines," *Current History,* November, 1935, 131–138.

[9] Hayden, J. R., "The Philippines in Transition," *Foreign Affairs,* XIV (1936), 649.

[10] *New York Times,* November 9, 1937.

[11] *Ibid.,* January 12, 1938.

Japanese Interests in the Philippines

It is an unhappy commentary upon the present state of international relations that the existence of considerable Japanese interests in the Commonwealth and the tendency toward interdependence in Japanese-Filipino trade should be viewed as anything but a fortunate situation for a new nation casting loose from colonial ties to a distant state. But the intense struggle between states for political control of raw materials, markets and outlets for migration, and particularly the exemplification of that struggle in Japan's suicidal adventure in China, are sufficient warning that the fate of Korea, Formosa, Manchuria—and possibly China proper—may lie concealed for the Philippines in an economic *anschluss* with Japan.

The principal concentration of Japanese interests today is in the district of Davao, province of Mindanao. There some 14,000 Japanese farmers are growing hemp on leased lands and there is room for a much denser population. The Japanese in the Islands number about 20,000 in a total population of 13,000,000. Japanese investments exist in fishing, forestry, mining and trading establishments as well as in agriculture but their total value is estimated at only $25,000,000, which may be compared with $200,000,000 of American investments (nongovernmental), and a total of all investments amounting to $2,000,000,000.[12]

Steps are being taken to terminate alien land-holding by prohibition of renewal of leases. However, the need of capital may operate against constitutional provisions limiting to Philippine citizens or to corporations 60% Filipino the development of any of the country's natural resources. There are vast forest reserves for which Japan is a leading market. Gold, iron and chromium are present in large quantities. That American withdrawal will stimulate the efforts of outside interests to share in the exploitation of these deposits may be taken for granted.

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[12] Porter, Catherine, "An Independent Philippines and Japan," *Far Eastern Survey,* April 14, 1937, 83–88; *United States-Philippine Trade, op. cit.,* 189–192.

The position of the Japanese in the foreign trade of the Philippines is already only second to that of the United States. In 1936 the Japanese share of Philippine imports was 14%, of exports 6%. Since Japan obtains its sugar from Formosa and Java, it offers no substitute for the American market, which in 1936 absorbed a million tons of the Philippine product, practically all that was exported.[13] Lumber, hemp, iron and chromium find a ready and expandable market in Japan. Cotton would be purchased if it were available, as it may become under a plan of diversification of crops. Should oil be found in quantity that also would be welcomed. For their part, the Filipino people are eager to buy the cheaper grades of cotton goods and rayons produced in Japan. But the government may favor a native cotton industry for purposes of self-containment.[14]

A feature of the Commonwealth administration under President Quezon which appears to look toward eventual conflict with some foreign state is the passage of a law for a national defense system on a scale that seems incommensurate with the country's resources. This system is credited to General Douglas MacArthur who was chief of a mission of the American army authorized by Congress, and who subsequently was appointed Field Marshal of the Philippine forces by President Quezon. Although army opinion in the United States is in general unfavorable to retention of the Philippines as a military base, believing it to be indefensible against a nearby power, General MacArthur's plan establishes a system of conscription by which 400,000 men are to be maintained as a reserve force while 20,500 officers and men are to constitute a standing army. This ambitious scheme was approved by the American Department of War.[15]

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[13] *United States-Philippine Trade,* 51.

[14] Porter, Catherine, *op. cit.,* 83–86.

It is apparent, since the Philippine army could only defend the country successfully in conjunction with a navy capable of preventing a blockade, and since the Philippines can not afford a navy, that the expectation of the authors of the defense law is that naval aid will be forthcoming from the United States or from some other source. The plan also suggests that there may be an expectation in the American navy that in case of war with Japan, a naval force based on the Philippines and supported by the Philippine army might draw off a sizeable Japanese fleet, thereby diminishing protection of the Japanese ports and coast line. Such expectations, if they exist, are in contradiction to one of the principal aims of the American people in granting independence to the Islands—that of diminishing the possibility of war with Japan. The proposal in the Independence Act that the President of the United States seek to bring about neutralization of the Islands by agreement reflects American public sentiment.

The United States and Philippine Governments continue to operate in preparing for the regime of independence.

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[15] Popper, D. H., "Creating a Philippine Commonwealth," *Foreign Policy Reports*, XII, No. 19, 242–243.

THE NETHERLANDS INDIES

Possession by the Netherlands of a great colonial empire in the southern Pacific brings that state inevitably into any consideration of interstate relations in that region.[16] The Netherlands Indies, which comprises the islands of Sumatra, Java, Celebes, the greater part of Borneo, the western half of New Guinea and others, has an area of 736,000 square miles and supports 65,000,000 inhabitants. The component islands are important producers of sugar, rubber, oil, tin and other essential commodities and contain undeveloped deposits of coal, iron and other minerals.[17] While the standards of native living are low and the density of the population is a bar to immigration in the more southerly islands, Borneo is lightly peopled and laborers are scarce. It has room for agricultural enterprises in coffee, sugar cane, rubber, etc., and requires capital and labor for such undertakings. Dutch New Guinea also is very thinly populated and in great need of capital and labor. It has a large area of soil that is suited to cultivation.[18]

Figures for Japanese investments in the Dutch Indies are not available but it is known that they are small. Commerce between the two areas is important, following as it does the natural lines of complementary production. From the low point of 1.6% in 1913 imports from Japan rose to nearly 32% of the total in 1934.[19] This was possible only because the severe economic depression in the East Indies, 1929–33, caused a drop in purchasing power and a turning to the lower-priced Japanese goods.[20] The Netherlands Indies took fourth place among Japan's export markets.

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[16] The standard work in this field is *The Dutch East Indies* by Amry Vandenbosch.

[17] Hauser, E. O., "Anglo-Japanese Rivalry in Southeast Asia," *Foreign Policy Reports,* XIII, No. 5, 57.

[18] Pelzer, K. J., "Japanese Migration and Colonization," in *Limits of Land Settlement* (Report to Tenth International Studies Conference, 1937), 189–191. (Mr. Pelzer states that: "There has never been an important development in the tropical parts of the Pacific that did not use imported Asiatic labor.")

Unfortunately for the further development of Japanese trade the volume of imports was badly out of balance with that of the exports. During the five years 1928–32 the Netherlands Indies sold to the Japanese goods valued at much less than half of those purchased from Japan. Apprehension lest the export markets for East Indies' products in Western countries might be affected caused the government to drop, at least temporarily, the long-maintained principle of free trade and to place restrictions upon imports calculated to prevent the establishment of a monopolistic position by Japanese goods.

In June 1934 negotiations between Japan and the Netherlands were begun at Batavia, the Japanese hoping to obtain a modification of Dutch commercial restrictions. They were adjourned early in 1935 without an agreement having been reached. Thereupon the restrictive measures were intensified with the result that imports of Japanese goods dropped nearly 10% in 1935 and another 10% in 1936. Concurrently exports to Japan rose more than 50%. Figures for 1936 showed imports from Japan valued at 75,000,000 guilders, exports to Japan worth 30,000,000 guilders.[21] Increased exports from Europe, particularly from the

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[19] Field, F. V., *Economic Handbook of the Pacific Area,* 449; Le Clair, J. C., "Japan's Trade with the Netherlands Indies," *Foreign Affairs,* XV (1936–37), 381–383.

[20] *Far Eastern Survey,* June 9, 1937, 130.

[21] *Ibid.,* September 1, 1937, 206.

Netherlands, and from the United States, filled the gaps left by diminished imports from Japan. Yet Japan's net export balance remained high.

In October 1936 conversations looking toward a trade agreement were undertaken at Soerabaia. Meanwhile private negotiations were being conducted between sugar interests of the two countries. The latter were successful and an agreement was reached which assured the Dutch exporters a monopoly of the Japanese raw sugar market for foreign sugar. In return Japanese refiners were guaranteed a price differential that would enable them to compete in Chinese markets.[22]

The Dutch colony does not make up for its unfavorable balance of trade with Japan through returns from the carrying trade. There also Japanese competition is keen and the Japanese share greater than the Dutch. This fact, coupled with the effects of the depression, led the East Indies government to enact a law requiring that a specified proportion of imports be carried in Dutch vessels.[23] Negotiations in 1935–36 produced an agreement allocating 62% of the cargo carried between East Indies ports and Japan to Japanese, the remainder to Dutch, bottoms.[24]

Dutch measures to maintain the economic autonomy of the East Indies are being extended also to the fields of small-scale industry. This has been practically monopolized by Chinese and Arabs. It is planned that cotton goods, cigarettes, tools and other metal goods, cement and other articles shall be manufactured in the islands and that native management as well as labor shall be trained to take over the industries. There is no expectation, however, that the East Indies ever will become an industrial region.[25]

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[22] *Far Eastern Survey,* January 20, 1937, 25–26.

[23] Vandenbosch, Amry, "Economic Conditions in Netherlands India," *Far Eastern Survey,* February 12, 1936, 39–40.

[24] *Far Eastern Survey,* February 3, 1937, 30.

Whether because of Dutch success in maintaining an open market and a share in the shipping business, a desire to control a source of petroleum, rubber, tin and other raw materials, or for other reasons, there appears to be sentiment in Japan in favor of securing a stronger hold upon the economic life of the East Indies. One factor may be the barrier to Japanese immigration interposed not by law but by cheaper Chinese labor.[26] There are only a few thousand Japanese in the region, which has a million industrious and incredibly frugal Chinese. Recently a member of the Japanese House of Representatives addressed an interpellation to the Government upon the advisability of negotiating for a perpetual lease of Dutch New Guinea. He referred to the undeveloped state of the island and suggested that his proposal would help to relieve the pressure of population in Japan. In the course of a very moderate reply, Premier Hayashi stated that, while Japan has no territorial designs on the East Indies, the Government recognized the necessity of Japan's peaceful economic development in the South Seas.[27]

Japanese naval officers and nationalistic business men have aroused Dutch apprehensions by less guarded statements. Such utterances appeared to offer some warrant for rumors set afloat in connection with the German-Japanese pact against communism of November 1936. According to the rumors the two States had signed a secret protocol dividing the Netherlands

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[25] *Far Eastern Survey,* June 9, 1937, 129–133.

[26] A head tax of 150 florins is the only legal restraint upon immigration. (Vadenbosch, A., in *Problems of the Pacific,* 1931, 448.)

[27] *Japan Weekly Chronicle,* March 4, 1937, 264; Japanese interests have a concession for cotton growing in New Guinea.

Indies into spheres of influence, Germany to have Sumatra, Java and other islands south of the Sunda Sea as its sphere, Japan the remainder of the colony.[28] The Dutch Government also has been given cause to worry by inquiries as to means of satisfying the countries which lack colonial territories.[29]

A good augury for the future of Dutch-Japanese relations was the ratification on May 25, 1935, two years after signature, of a general treaty of judicial settlement, arbitration, and conciliation. Under this treaty, which is the only bilateral treaty of arbitration between Japan and any State, all nonjuridical disputes of every nature are to be submitted to a permanent conciliation commission unless previously settled diplomatically. Juridical issues may be similarly dealt with if the parties agree; normally these are to be placed before the Permanent Court of International Justice or an arbitral tribunal.[30]

The Netherlands is not, however, neglecting the defenses of the Indies. A small but up-to-date fleet of cruisers, destroyers and submarines is maintained there. Naval and air bases are being improved. A strong air force, fortifications and a modernized army are ready to defend this long-held and profitable colony.[31] But it is clear that the continuance of Dutch sovereignty there, in the future as in the past, depends upon the naval power of Great Britain.

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[28] Augur, in *New York Times,* November 26, 1936.

[29] McCormick, Anne O'Hare, in *New York Times,* December 18, 1937.

[30] The Treaty, in the French language, is published in *Contemporary Japan,* IV (1935), 307–313.

[31] Van Hamel, J. A., "Can the Netherlands Be Neutral," *Foreign Affairs,* XVI (1938), 345–346.

XIX. NAVIES, NAVAL BASES AND AIR ROUTES

THE TREATIES OF WASHINGTON AND LONDON

The Washington Conference on the Limitation of Armament (November 12, 1921–February 6, 1922), inaugurated a partial holiday in the building of fortifications and navies by Pacific powers. By Article XIX of the treaty limiting naval armament signed at the conference, Great Britain, Japan and the United States agreed that at least until December 31, 1936 they would neither strengthen their fortifications or naval bases, nor build new ones on a designated list of their Pacific islands. All American islands in the Pacific were included except the Hawaiian Islands and those adjacent to the coast of the United States, Alaska—not including the Aleutian Islands,—and the Panama Canal Zone. The Japanese islands concerned were the Kuriles, Bonins, Amami-Oshima, the Loochoos, Formosa and the Pescadores. Hong Kong and a number of smaller British islands completed the list.[1]

The same treaty established a ratio of 5-5-3-1.67-1.67 for the tonnage of Great Britain, the United States, Japan, France and Italy respectively in the two classes of capital ships and aircraft carriers. The ratio was based upon existing strength and was designed, in association with the provisions on naval bases, to assure the United States and Japan of invulnerability in their respective home waters. Total tonnages of 525,000 for Great Britain and the United States and of 315,000 for Japan were set, capital ships were limited to 35,000 tons standard displacement, and gun caliber was limited to 16 inches.[2]

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[1] *Conference on the Limitation of Armament,* 1581–1582. The provision went into force on August 17, 1923.

The mandates in the Pacific, held by Australia, Great Britain, Japan and New Zealand, provide that "no military or naval bases shall be established or fortification erected in the territory."[3] So far as the Japanese mandated islands are concerned, the pledge that they shall not be fortified was repeated by Japan in the treaty with the United States, signed February 11, 1922.[4]

The naval conference at Geneva (June 20–August 4, 1927), was abortive[5] but the Conference of London (January 21–April 22, 1930), produced the comprehensive London naval treaty, which carried forward the excellent work begun at Washington. The new agreement, between Great Britain, Japan and the United States, covered all classes of ships, aiming to stabilize the navies of the three greatest naval powers and to terminate competition. Great Britain and the United States were placed on equal terms while Japan retained its capital ship ratio of 6:10 and a ratio of 6:10 in the large class of cruisers, 7:10 in the small class, 7:10 in destroyers, and equality in submarines. It was agreed that no additional capital ships would be built prior to December 31, 1936. The so-called escalator clause permitted increases in the event that naval building by any State menaced the security of any of the signatories. The date of termination of the treaty was December 31, 1936.[6]

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[2] *Conference on the Limitation of Armament,* 1576–1577; the Japanese contended that a ratio of 10:7 was nearer to a reflection of their existing strength.

[3] Wright, Quincy, *Mandates Under the League of Nations,* 620.

[4] Malloy, W. M., *Treaties, etc., of the United States, etc.,* Vol. III, 2724. The cable island, Yap, subject of dispute between the United States and Japan, 1921–22, is in the West Caroline group.

[5] Fenwick, C. G., "The Three-Power Naval Conference," *American Journal of International Law,* XXI (1927), 757–760.

In the light of subsequent developments, a paragraph in the international radio address of the courageous Premier Yuko Hamaguchi, on the occasion of the deposit of ratifications on October 27, 1930 is of historical interest:[7]

> The treaty of London has opened a new chapter in the history of human civilization. We have once for all escaped from what I may call the "pioneer stage," in which every nation's hand is actually or potentially against every other. We have entered on the sane and friendly "settlement stage," in which every one is united to suppress intrusions by any one in another's sphere. A momentous step forward on the road of international peace and friendship has now been taken. Let it prove a prelude to still greater triumphs for that lofty cause.

The London treaty provoked a constitutional crisis in Japan; the Naval Staff Board, headed by Admiral Kanji Kato, was highly incensed over its terms and over the cabinet's determination to have it ratified against the objections of the board.[8] There is reason to suspect that the hasty action of the supreme command of the Japanese army in September 1931 in the Manchurian intervention was in part a reaction against the constitutional methods which prevailed in 1930. In any case the occupation of Manchuria and the subsequent military and naval developments in China spelled death for the Washington and London naval treaties.

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[6] *American Journal of International Law,* XXV (1931), Official Documents Supplement, 63–80.

[7] *Current History,* December, 1930, 480.

[8] Quigley, Harold S., *Japanese Government and Politics,* 107–109.

THE END OF LIMITATION BY AGREEMENT

Although Japan had accepted a general inferiority of naval strength as its quota, the naval command had never approved the ratios. After 1931 the demand for parity with Great Britain and the United States replaced that for a higher ratio. Admiral Nomura has recently written:[9]

> Japan has become finally convinced that so long as she suffers from the stigma of the 5:5:3 ratio she can not fulfill her mission of preserving peace and order in the Far East. This ratio must be abolished, and Japan granted a position of equality with other powers. . . . What Japan ardently desires in the matter of national defense is the recognition of the principle of equal opportunity, and the right, within the scope of that principle, to freely provide herself with such arms as she may deem necessary to secure her defense.

The limiting effect of the treaties of Washington and London was slight because the policies of the Pacific powers were out of accord with the treaties. As early as 1924 Great Britain began the building of five large cruisers and Japan laid the keels of four such ships. The United States authorized the building of eight heavy cruisers in 1925 and began their construction in 1926. In the following years additional large ships were built or authorized by all three powers. Under the London treaty it was permissible for the three powers to add or replace ships totalling a million tons. Japan was earliest in taking advantage of this situation, and proceeded rapidly to build up its navy to the full extent permitted by the treaties. Great Britain adopted a

[9] Nomura, Admiral K., "Japan's Demand for Naval Equality," *Foreign Affairs,* XIII (1935), 198–199.

program of more gradual replacement which did not contemplate attainment of its full quota. The United States moved slowly until 1933 when the building program was hastened; in 1934 the Vinson-Trammell Act was passed authorizing the construction of 102 naval vessels but leaving appropriations therefor to later acts. This Act was designed to bring the American navy to full treaty strength by 1942.[10] It provided, however, that any sections of the act that were incompatible with agreements that might be reached at a naval conference should not become effective.

The Japanese Government on December 29, 1934 denounced the Washington naval treaty, effective on December 31, 1936. Such notice was not required in respect to the London treaty, which provided for a conference in 1935 to consider a new agreement. After conversations between British and American representatives in the summer of 1934, Japan was brought into the discussions in October of that year. From the beginning the Japanese insisted upon equality with the other two powers. They asked that a total tonnage be fixed and each power left free to decide what classes of defensive ships and how many of each class it should build. They also desired to reduce their own tonnage and to abolish all classes deemed to be aggressive. At that time they were opposed to capital ships and aircraft carriers. To the American contention that the existing ratios gave "equality of security" the Japanese returned a flat denial. The Japanese also emphasized the point of prestige. The British representatives were willing to concede equality of armament if the Japanese would give assurances that they would not build up to the limit. But the Japanese declined to give such assurances. The notice of denunciation by Japan followed adjournment of the discussions.[11]

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[10] Stone, William T., "Impending Naval Rivalry," *Foreign Policy Reports,* X, No. 3.

Naval building continued in the United States through appropriations supplementary to the Vinson-Trammell Act but at a moderate pace. In July 1935 the British Government announced its decision to oppose any future limitation of building by categories of vessels, a method which had prevented it from obtaining the desired number of light cruisers. This move was also in line with Japanese desires.[12] But neither Great Britain nor the United States was willing, at the second London naval conference of December 1935–January 1936, to concede the equality again demanded by Admiral Nagano, the chief delegate of Japan. And the events of the latter months of 1935 in north China brought the British and American Governments into closer agreement. The Japanese delegates withdrew from the conference and the two naval treaties of limitation were terminated on December 31, 1936. Since that date there has existed no legal obstacle to a naval race in the Pacific other than the terms of the new treaty of 1936 entered into by France, the United Kingdom, the British Dominions and the United States. That treaty set no quantitative limits and the qualitative limits of 35,000 tons upon capital ships and of 14 inches upon the caliber of guns were not to be binding in the event that another power failed to maintain those limits.[13] Germany, Italy and the Soviet Union accept those limits.

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[11] Shepardson, Whitney H., and Scroggs, W. O., *The United States in World Affairs,* 1934–35, 181–187.

[12] *Ibid.,* 188–194.

[13] Davis, Norman H., "The New Naval Agreement," *Foreign Affairs,* XIV (1936), 578–579. Mr. Davis stated that the British and American delegations exchanged letters agreeing that there should be no competitive naval construction between their countries, 583.

Japanese naval construction has been conducted secretly during the post-treaty period. To inquiries from Washington and London concerning limitation of maximum gun calibers to 14 inches the answer of Tokyo was in the negative.[14] Suspicions that Japan was planning to build super-capital ships were stimulated early in 1937 in Occidental countries by the unwillingness of the Japanese to reveal their plans. The Italian newspaper *Giornale d'Italia* stated on November 7, 1937 that Japan had under construction vessels of more than 40,000 tons, mounting 16-inch guns.[15] American apprehension was increased by the consideration that since the Panama Canal will not carry ships larger than 35,000 tons, the larger battleships required to meet a Japanese fleet of super-ships would reduce the mobility of the American fleet unless the Canal were enlarged. A Japanese fleet of super-ships also would compel the United Kingdom to alter its plans, which call for a large proportion of lighter vessels, and have a bearing on the effectiveness of the Singapore base.

As the date approached when, under the London treaty of 1936, the Governments signatory thereto were required to inform each other regarding plans for naval construction, notes of identical tenor were sent to Tokyo early in February 1938 by those powers. The American note, delivered to Japan on February 5, asked that the Japanese Government give assurances before February 20 that:[16]

> . . . it will not, prior to January 1, 1943, lay down, complete or acquire any vessel which does not conform to the limits in question, without previously informing the

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[14] *New York Times,* March 18, 29, 1937; June 19, 1937.

[15] *Ibid.,* January 21, 1938.

[16] Department of State, *Press Releases,* February 5, 1938, XVIII, 226.

> American Government of its intention to do so and of tonnage and caliber of the largest gun of the vessel or vessels concerned.

The note stated that unless such assurances were received the American Government "will be compelled to assume that the Japanese Government either is constructing or acquiring or has authorized the construction or acquisition of vessels not in conformity with the limits referred to." [17]

The Japanese reply, dated February 12, recalled the Japanese proposals of 1935 and declared that "the Japanese Government always were prompted by a spirit of nonmenace and nonaggression, and have no intention whatever of possessing armament which would menace other countries." The note further stated that: [18]

> . . . At this juncture, when as a result of the nonacceptance by other countries of the reasonable desires of Japan in the matter of disarmament there is as yet in existence no fair disarmament treaty to which Japan is a party, the Japanese Government is of opinion that mere communication of information concerning the construction of vessels will, in the absence of quantitative limitation, not contribute to any fair and equitable measure of disarmament and regret that they are unable to comply with the desire of your Government on this point.

It denied the logic of an assumption that the failure to give desired information indicated an intent to build larger ships than those permitted by the London treaty of 1936 and concluded with an offer "to enter into any discussions on the matter of disarmament which give primary importance to a fair, quantitative limitation."

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[17] Department of State, *Press Releases,* February 5, 1938, XVIII, 226; *New York Times,* February 6, 1938.

[18] Department of State, *Press Releases,* February 12, 1938, XVIII, 256; *New York Times,* February 13, 1938.

AMERICAN NAVAL EXPANSION

The introduction of a second Vinson bill into the House of Representatives on January 28, 1938 calling for a great program of naval construction in addition to the increases authorized in the act of 1934, the amendment to that act dated June 25, 1936 and to other increases included in requested appropriations for 1939, precipitated a warm discussion in Congress and throughout the United States. The new bill authorized three capital ships of 35,000 tons each, 30,000 tons of aircraft carriers, 68,754 tons of cruisers, 38,000 tons of destroyers, and a large number of smaller craft and naval airplanes. The Vinson bill, estimated to entail appropriations of $1,200,000,000, taken in conjunction with construction already under way, authorized, or requested, was designed to enlarge the American navy (as of January 1, 1938) from a total of 117 underage vessels of 919,355 tons to a total of 273 underage vessels, of 1,719,687 tons, in other words to increase the combatant tonnage of the navy nearly 90%.[19]

President Roosevelt sent a message to Congress on January 28 requesting, *inter alia,* "that the existing authorized building program for increases and replacements in the navy be increased by 20 per cent." He introduced his recommendations with the statement that "our national defense is, in the light of the increasing armaments of other nations, inadequate for purposes of national security and requires increase for that reason." The President referred to "the discarding of those principles and treaties which underlie international law and order." "Adequate defense," he declared, means that "we must keep any potential enemy many hundred miles from our continental limits"; it "affects therefore the simultaneous defense of every part of the United States of America." [20]

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[19] *New York Times,* January 29, 1938; see Appendix, p. 321.

It seems apposite to quote here a recent statement by the English naval expert, Hector C. Bywater: "For reasons too numerous to detail here it is in the last degree improbable that Japan would undertake any large offensive against the American mainland or even Hawaii. To do so would be to dissipate its forces and play right into American hands. . . . Japan would be mad to attempt any big stroke across the Pacific." (*Pacific Affairs,* VIII, 169.)

Admiral Leahy, chief of Naval Operations, stated before the Naval Affairs Committee of the House of Representatives on January 31 that: [21]

> The navy insures our national integrity, supports our national policies, guards the continental United States and our overseas possessions and gives protection to our citizens abroad.

He made reference to political conditions in Europe and the Far East and stated that "the major conflict in progress in China has resulted in many grave incidents involving the sovereign rights and interests of the United States . . ." and that "the . . . years 1930 to 1936 witnessed the violation of treaties and the spoliation of weak nations by those with aggressive policies." He also referred to the "Italo-German-Japanese anti-Communist protocol" as a "powerful armament bloc" which "must be taken into consideration by America's sea defense." Admiral Leahy declared however that:

> There is nothing in this program that would permit of aggressive action, of policing the world, or of projecting

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[20] *New York Times,* January 29, 1938.
[21] *Ibid.,* February 1, 1938.

an attack against the territory of any other naval power. It would require at least three times the proposed increase to prepare for aggressive action with any reasonable prospect of success. The proposed increase is not sufficient to guard against attack on both shores at one time.

Discussion of the proposed expansion in Congress cannot be understood without reference to an address made by President Roosevelt at Chicago on October 5, 1937. After a forceful description of the conditions of warfare existing in various countries, he said:[22]

> . . . If we are to have a world in which we can breathe freely and live in amity without fear—the peace-loving nations must make a concerted effort to uphold laws and principles on which alone peace can rest secure.
>
> The peace-loving nations must make a concerted effort in opposition to those violations of treaties and those ignorings of humane instincts which today are creating a state of international anarchy and instability from which there is no escape through mere isolation or neutrality. . . .
>
> When an epidemic of physical disease starts to spread, the community approves and joins in a quarantine of the patients in order to protect the health of the community against the spread of the disease. . . .
>
> . . . The will for peace on the part of peace-loving nations must express itself to the end that nations that may be tempted to violate their agreements and the rights of others will desist from such a course. There must be positive endeavors to preserve peace.

When on December 12, 1937 the American gunboat *Panay*, lying in the Yangtze River off Wuhu, was bombed from the air and sunk by Japanese naval airmen, an inevitable result was the effort to strengthen the navy of the United States. This was not affected by the apology tendered by the Japanese Government nor by its promises of indemnity and of punishment of the participating naval officers.[23] American public opinion was uncertain whether to believe that the attack was ordered by the supreme command at Tokyo or that it represented the attitude of an irresponsible clique. In either case, however, the incident reflected upon the high command, increased apprehension abroad, and reduced American opposition to naval expansion.

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[22] Department of State, *Press Releases,* October 9, 1938, XVIII, 277, 279; *New York Times,* October 6, 1937.

Congressional discussion of the new naval bill did not center upon costs but upon the implications it might contain concerning foreign policy. Fear was expressed that intervention in the Far Eastern conflict, either alone or in concert with the United Kingdom, was in contemplation.[24] Senator Hiram Johnson of California introduced a resolution asking Secretary Hull three questions which may be combined to read whether or not the United States had or contemplated entering into any alliance with Great Britain, or any understanding with Great Britain or any other nation, for the use of the navy in conjunction with that of any nation.[25] Mr. Hull's negative answer to these questions did not quiet the suspicions, and the Secretary of State was led to amplify his statements in a letter to Louis Ludlow, Representative from Indiana. While maintaining his former position, he stated:[26]

> . . . That this Government carefully avoids, on the one hand, extreme internationalism with its political entanglements, and, on the other hand, extreme isolation, with its

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[23] *Press Releases,* XVII, 447, 450, 497; *New York Times,* December 13, 14, 15, 25, 1937.

[24] *New York Times,* February 2, 3, 8, 9, 1938.

[25] Department of State, *Press Releases,* February 12, 1938, XVIII, 251; *New York Times,* February 9, 1938.

[26] *Press Releases, loc. cit.,* 255; *New York Times,* February 13, 1938.

tendency to cause other nations to believe that this nation is more or less afraid; that while avoiding any alliances or entangling commitments, it is appropriate and advisable, when this and other countries have common interests and common objectives, for this government to exchange information with the governments of such other countries, to confer with those governments, and, where practicable, to proceed on parallel lines, but reserving always the fullest freedom of judgment and right of independence of action.

For purposes of comparison brief reference may be made to the naval strength of other powers in underage vessels at the time of the introduction of the new Vinson bill. The United Kingdom had 188 vessels of 1,076,123 tons and was building or had appropriated for 86 vessels of 501,465 tons, a grand total of 274 vessels of 1,757,743 tons. So far as known, Japan had 158 vessels of 691,395 tons and was adding 18 vessels of 58,022 tons, a total of 749,417 tons. France had 173 vessels of 512,441 tons and was adding 27 of 133,148 tons, a total of 645,589 tons. Italy had 168 vessels of 374,961 tons and was adding 63 of 126,235 tons, a total of 501,196 tons. Germany had 67 vessels of 103,674 tons and was adding 63 of 305,323 tons, a total of 408,897 tons.[27]

NAVAL BASES

The expiration of the naval treaty of Washington not only put an end to the brief period of naval limitation. It also terminated the obligations upon the United Kingdom, Japan and the United States to maintain the *status quo* of 1922 with regard to non-excepted fortifications and naval bases in the Pacific Ocean. An inquiry of the British Government as to the American

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[27] *New York Times,* January 29, 1938. See Appendix, p. 321–324, for data as of April 1, 1938.

Government's willingness to continue the *status quo* after 1936, with the proviso that existing fortifications might be strengthened, received a negative reply. That plan would prevent fortification of the Aleutian Islands, now regarded as of high strategic importance.[28] Moreover, the United States regarded the nonfortification provisions as a concession to Japan in return for the latter's acceptance of a smaller fleet and the principles of the Nine Power Treaty concerning China. The British proposal was held to be advantageous to Japan and the United Kingdom but weakening to the United States. In view of the dependence of Canada upon American naval defense of its Western coast, the sponsorship by the United Kingdom of what may have been a Japanese suggestion emphasized British apprehensions of Japanese pressure upon Malaya and the wealthy Dutch islands that are its neighbors.[29]

Aside from its interest in the open door policy, the principal concern of the United States in the western Pacific is the Philippines. By the terms of the Independence (Tydings-McDuffie) Act of 1934 the United States is obligated to defend the Commonwealth for ten years or until July 4, 1946. The President is requested by the act to obtain neutralization for the Islands, if possible, and the matter of the retention of American naval bases is left to be settled between the American and Filipino Governments after independence is attained.[30]

Evidences of American intentions to establish naval bases in Alaska and the Aleutian Islands were observed in the designation of a part of Kodiak Island, east of Alaska Peninsula, for use of the navy, and by the creation of an "airspace reservation," closed to civilian aircraft except by permission, over all islands of the Aleutian archipelago west of the 167th meridian.[31] Dutch Harbor, at the eastern end of the Aleutians, was believed to be decided upon as a naval and air base.[32] "Since 1934," recently wrote the British naval authority, Hector C. Bywater, "the United States has been unobtrusively building, as it were, a strategical bridge between Hawaii and the Philippines, and at the same time surveying an alternative route to Japanese waters from the Aleutian Islands. Such stepping stones as Midway Island, Wake Island, Guam and Dutch Harbor are regaining all the importance they possessed prior to the Washington treaty of 1922. Moreover, it is still on the cards that the United States may decide to revive the pre-treaty plan of converting Guam into a major naval base. This will largely depend on what policy Washington elects to follow when the independence of the Philippines is an accomplished fact. If the United States should then undertake to guarantee the integrity of the islands, the creation of a big naval base at Guam would appear to be an inescapable necessity." [33]

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[28] *Christian Science Monitor,* November 6, 1936.

[29] Chamberlin, W. H., "Naval Bases in the Pacific," *Foreign Affairs,* XV (1937), 488–489.

[30] Public—No. 127, 73rd Congress. (H.R. 8573); *International Conciliation,* No. 318 (March, 1936), 137–159.

Since 1936 the United Kingdom has strengthened the fortifications of Hong Kong, which Bywater terms the "Achilles heel" of the British position in the Far East. The great naval base at Singapore was opened on February 14, 1938, giving the British Empire a drydock capable of containing its largest battleships.[34] An

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[31] *New York Times,* December 11, 1937.

[32] Booy, H. Th. de, "The Naval Arm of Diplomacy in the Pacific," *Pacific Affairs,* VIII (1935), 15.

[33] Bywater, H. C., "Britain on the Seas," *Foreign Affairs,* XVI (1938), 217.

[34] *New York Times,* February 15, 1938.

American naval squadron was present by invitation at the opening ceremony. The mental comfort which the new base justified in British and Dutch—not to say American and French—minds was slightly disturbed by reports that Japan was negotiating with Siam for the building and lease of a canal across the Kra Isthmus. Confined to commercial uses, a canal would be an advantage to all nations. But should Japan also obtain a naval base in connection with it the value of Singapore would be seriously affected.[35]

In March 1937 the British defenses at Hong Kong were tested by land, sea and air maneuvers lasting six days.[36] About a year later similar tests were made of Singapore.[37] In March 1938 the American navy engaged in extensive maneuvers, reaching from the Aleutians through Midway Island to Samoa. There was discussion of the possible relation of these activities to a joint British-American effort, by long-range blockade, to bring pressure toward a settlement of the Sino-Japanese conflict. In view of the generally-held opinion of naval experts that Japan's position in its own waters was impregnable against direct attack and of the equally general belief that Japan neither would nor could attack the United States, the theory of blockade at a distance offered a rational explanation of naval expansion.

A new factor of importance is the naval and air base under development at Vladivostok by the Soviet Union. While its naval significance may be purely defensive, unless the U.S.S.R. were allied with a strong naval power, the proximity of Vladivostok to Japan's main centers of population and principal fortified areas makes the Soviet air force a serious threat. Habarovsk, 400 miles north of Vladivostok, is being developed as a military base, with oil refineries and steel works.[38]

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[35] *New York Times,* February 15, 1938.

[36] *Ibid.,* March 22, 1937; *Far Eastern Survey,* February 2, 1938, 25–29.

[37] *Ibid.,* February 3, 1938.

Air Routes

The extreme mobility of aeroplanes renders them available, in a comparatively short time, for use at points of attack that are remote from bases. The great distances between the countries and colonies of the Pacific area, however, create a problem of much difficulty even for the aeroplane. This problem can not be wholly solved by the aircraft carrier, since it can accommodate only a comparatively small number of planes and is itself highly vulnerable. The British navy contemplates a total of 10 carriers, capable of transporting 500 planes.[39] The air arm requires island bases within its radius of effective flight.

While the application of governmental subsidies to the provision of air lines from the United States and certain European countries to the western Pacific and the East Indies has its commercial aspect, it is obvious that a knowledge of air and weather conditions, practicable landing sites, the capacity of planes for sustained flight, etc., is essential for the development of air forces expected to operate over the Pacific and that this data may best be secured by commercial air companies. For the United States the pioneering work of Pan American Airways from Honolulu west, via Midway and Wake Islands and Guam, to Manila and Hong Kong, and from Honolulu south via Kingman Reef and Pago Pago (Samoa) to New Zealand, has been invaluable, attended as it was with several years of preliminary engineering and survey work. British co-operation through the grant of landing rights at Hong Kong and Auckland is testimony to the appreciation of common interests.[40]

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[38] Booy, H. Th. de, *op. cit.*, 15–16.

[39] Bywater, Hector C., *op. cit.*, 218.

The British company, Imperial Airways, inaugurated passenger service to Australia in 1934.[41] The Royal Dutch Air Lines connect the Netherlands Indies with the home country.[42] Since 1931 there has been in operation an intercontinental line from Moscow to Vladivostok. This line has a branch from Habarovsk to Cape Wellen on Bering Strait which may be the port for a trans-Pacific service to Seattle, Washington.[43] The French line, Air France, has a line from France to French Indo-China, which connects at Hanoi with the Chinese-American line of the China National Aviation Corporation.[44] Germany's Lufthansa has not yet established a route to China, though it seeks to do so and has contributed one-third of the capital of the Eurasia Aviation Corporation, operating several lines in China, for that purpose.[45] No Japanese line spans the Pacific but the Japan Air Transport Company operates services to Saipan in the South Seas mandated territory (crossing the Pan American route), as well as to Formosa, Manchuria, Korea and north China.[46] These main lines are supported in the Indies, Indo-China, Australasia, etc., by a remarkable network of air services doing excellent business.

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[40] *New York Times,* March 12, 31, 1937.

[41] *Far Eastern Survey,* April 28, 1937, 96. [42] *Ibid.,* March 17, 1937, 66–67.

[43] *Ibid.,* April 28, 1937, 97–98.

[44] *Ibid.,* January 29, 1936, 29.

[45] *Ibid.,* April 28, 1937, 96.

[46] *Ibid.,* April 28, 1937, 97; Pépin, E., "Les Liaisons Aériennes dans le Pacifique," *Revue Aeronautique Internationale,* No. 20, June 1936; McConnell, Burt M., "The Race for Aerial Trade Routes," *Yale Review,* XXVII (1938), 348–365.

XX. AGREEMENTS FOR PRESERVING PEACE[1]

Four-Power Pact

A special agreement regarding their islands in the Pacific was signed at the Washington Conference by France, Great Britain, Japan and the United States. By the Four-Power pact, as it is usually termed, these States promised to respect each other's rights "in relation to their insular possessions and insular dominions in the region of the Pacific Ocean"; to refer any controversy "arising out of any Pacific question and involving their said rights which is not satisfactorily settled by diplomacy" to a conference of the four States "for consideration and adjustment"; and, in case "the said rights are threatened by the aggressive action of any other power," to "communicate with one another fully and frankly in order to arrive at an understanding as to the most efficient measures to be taken, jointly or separately, to meet the exigencies of the particular situation." It was provided that upon the deposit of ratifications of the treaty the Anglo-Japanese alliance should terminate.[2] The treaty included the mandated islands in the Pacific but did not thereby give the assent of the United States to the mandates. By a separate treaty the United States consented to Japan's administration of the mandate;[3] but it has not as yet signed treaties recognizing the Pacific Ocean mandates of Australia, New Zealand or the British Empire. In its application to Japan, the Four-Power pact includes only Karafuto (the southern portion of the island of Sakhalin), Formosa and the Pescadores, and the Japanese mandated territories. Domestic questions are excluded from the scope of the pact.[4]

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[1] On this general topic see Wright, Quincy, *Diplomatic Machinery in the Pacific Area* (Institute of Pacific Relations, New York, 1936).

[2] *Conference on the Limitation of Armament,* 1614–1615; Malloy *op. cit.,* III, 3094–3096. Ratifications were deposited at Washington, August 17, 1923.

So much apprehension was felt by some Americans regarding the possible implications of this treaty that the United States Senate ratified it subject to the following reservation:[5]

> The United States understands that under the statement in the preamble or under the terms of this treaty there is no commitment to armed force, no alliance, no obligation to join in any defense.

On the other hand, it is believed by many that the Four-Power pact was a painless method of terminating the Anglo-Japanese alliance and that otherwise it has slight significance. The terms of the treaty make it clear that it is strictly limited in its scope to islands in the Pacific Ocean and does not apply to China or the mainland of Japan.

Nine-Power Treaty Regarding China

As for China, the Pacific states—the British Empire, France, Japan, the Netherlands, Portugal, Belgium, Italy, China and the United States—signed a Nine-Power treaty at the Washington Conference "relating to principles and policies concerning China," which aimed in part "to safeguard the rights and interests of

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[3] Malloy, *op. cit.*, III, 2723.

[4] *Conference on the Limitation of Armament,* 1617–1620; Malloy, *op. cit.*, III, 3096–3099.

[5] Malloy, *op. cit.*, III, 3096.

China"; and in which they promised "to respect the sovereignty, the independence and the territorial and administrative integrity of China"; and, further, agreed that [6]

> whenever a situation arises which in the opinion of any one of them involves the application of the stipulations of the present treaty and renders desirable discussion of such application, there shall be full and frank communication between the contracting powers.

Any violation, therefore, of the sovereignty or integrity of China is not only contrary to the treaty, but, upon the desire of any one of the contracting states, calls for a frank discussion of the situation by the Pacific governments.

Pact of Paris

The treaty for the renunciation of war signed at Paris, August 27, 1928 entered into full force on July 24, 1929 throughout the Pacific and the Far East as well as elsewhere. All the Pacific states represented at the Washington Conference, including the British Dominions in the Pacific, and, in addition, the Union of Soviet Socialist Republics, as parties to it, declare "that they condemn recourse to war for the solution of international controversies, and renounce it as an instrument of national policy in their relation with one another," and "agree that the settlement or solution of all disputes or conflicts of whatever nature or of whatever origin they may be, which may arise among them, shall never be sought except by pacific means." [7]

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[6] *Conference on the Limitation of Armament,* 1621–1627; adherents to the treaty numbered five—Bolivia, Mexico, Denmark, Sweden, and Norway; the total of signatory states, six being within the British Empire, was 19.

[7] For the text of the treaty, see Appendix, p. 314.

League of Nations Covenant

The League of Nations has an excellent organization, a Secretariat skilled in dealing with international disputes and a Council which has proved its ability to solve many perplexing European tangles. Of the 19 Washington Conference states, 17 were Members of the League when the Sino-Japanese struggle began, and as such had pledged themselves to submit their international issues to judicial settlement, arbitration or conciliation, and to join with other Member States in helping to maintain world peace. But of the five most important Pacific states, two, the United States and the Soviet Union, were not Members of the League; Japan left it during the controversy while the Soviet Union became a member. That the League made and is still making serious efforts to prevent war and to find a satisfactory basis of settlement can not be doubted. That it has so far failed is painfully obvious.

As to the Permanent Court of International Justice, all of the Washington Conference States except the United States and Mexico have ratified the protocol of the Court. But they have not thereby pledged themselves to submit their disputes to its jurisdiction. Such a pledge is given only by those states which under the so-called "optional clause" agree to submit to the decision of the Court certain classes of legal issues. All but five of the Washington Conference States—Japan, Italy, China, Mexico and the United States—have accepted this optional clause.[8]

The General Act for the Pacific Settlement of International Disputes (1928), includes seven Pacific States among its signatories. This is intended to be a standard form of agreement respecting the scope and procedure of conciliation, judicial settlement and arbitration, and is open to accession by all States. An older instrument, the Hague Convention of 1907 for the use of arbitration and mediation binds all Pacific States, with the possible exception of the Soviet Union.[9]

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[8] See Hudson, Manley, O., *The Permanent Court of International Justice,* and the same author's annual articles in the January number of the *American Journal of International Law;* also *The World Court, 1921–1938* (World Peace Foundation, 1938).

Bilateral Treaties for Promotion of Peace

There are a number of bilateral treaties for the promotion of peace between the various Pacific countries. The United States has treaties of the Bryan type originally signed in 1913 and 1914 now in force with all of the Pacific States except Japan.[10] The contracting States agree that all disputes arising between them,[11]

> of whatever nature they may be, shall, when ordinary diplomatic proceedings have failed and the high contracting parties do not have recourse to arbitration, be submitted for investigation and report to a permanent international commission . . . [and they] agree not to resort, with respect to each other, to any act of force during the investigation to be made by the commission and before its report is handed in.

The Root treaties signed in 1908–09 with the Pacific States have all expired. A new series of arbitration treaties in succession to the Root treaties was negotiated by Secretary Kellogg. They provide that "all differences relating to international matters . . . which are justiciable in their nature" shall be referred to arbitration provided they do not concern domestic issues, the interests of third parties, the Monroe doctrine or the obligations of the League of Nations.[12] The United States has treaties of this type in force with France, China, the Netherlands and Portugal, among Pacific States. China has treaties of arbitration with the United States and the Netherlands. France has treaties of arbitration or conciliation, or both, with the Netherlands, Portugal, the Soviet Union and the United States. Japan's only arbitration treaty in the Pacific is with the Netherlands. The United Kingdom has but one such treaty, with Siam; the Soviet Union has a conciliation treaty with France.[13]

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[9] Wright, Quincy, *op. cit.,* 17, 22.

[10] The treaty with Russia is in force but no effort has been made to render it applicable to the successor state, the Soviet Union, by completing the appointment of commissioners under it.

[11] Malloy, *Treaties, Conventions, etc.,* III, 2515, gives the wording of the treaty with China.

It is apparent that if the Pacific as a political region belies its name the fault does not lie in a paucity of "peace machinery." It may be that the suggestion of two liberal Japanese scholars that existing ideas and procedures drawn from the Covenant, the Nine-Power treaty, the Four-Power treaty and other instruments be combined in a "security pact" for Pacific States is worthy of consideration.[14] An American authority, Professor Quincy Wright, holds that "political progress in the Pacific area and elsewhere probably requires the concentration of attention upon procedures, rather than upon the substance of rights or grievances," but he also states that "the problem of improving the diplomatic machinery of the Pacific is not to be solved by more machinery, but by more universal ratification of the treaties which exist . . . and more determination on the part of public opinion to make the procedures specified by these treaties work."[15] It may be added that in addition to both rights and procedures there are *national policies* to be considered. The latter always have overwhelmed the former if they were pursued with superior power and vigor. Treaties and tribunals are static things; politics is dynamic, explosive. Settlement of the problem of the Pacific calls for a meeting of minds in the realm of policy.

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[12] For the wording of the American-French treaty, see *American Journal of International Law,* Supplement XXII (April, 1928), 38.

[13] Wright, *op. cit.,* appendix, Table V.

[14] Takaki, Yasaka, and Yokota, Kisaburo, *Some Considerations on the Future Reconstruction of Peace Machinery in the Pacific* (Japanese Council, Institute of Pacific Relations, 1933).

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[15] Wright, Quincy, *op. cit.,* 34, 40–41.

APPENDICES

I. JAPANESE POLICY TOWARD CHINA

A. MANCHURIA

1. Protocol of Recognition of Manchoukuo, September 15, 1932 [1]

Whereas Japan has recognized the fact that Manchoukuo, in accordance with the free will of its inhabitants, has organized and established itself as an independent state; and

Whereas Manchoukuo has declared its intention of abiding by all international engagements entered into by China in so far as they are applicable to Manchoukuo;

Now the Governments of Manchoukuo and Japan have, for the purpose of establishing a perpetual relationship of good neighborhood between Manchoukuo and Japan, each respecting the territorial rights of the other, and also in order to secure the peace of the Far East, agreed as follows:

1. Manchoukuo shall confirm and respect, in so far as no agreement to the contrary shall be made between Manchoukuo and Japan in the future, all rights and interests possessed by Japan or her subjects within the territory of Manchoukuo by virtue of Sino-Japanese treaties, agreements or other arrangements or Sino-Japanese contracts, private as well as public;

2. Manchoukuo and Japan, recognizing that any threat to the territory [2] or to the peace and order of either of the High Contracting Parties constitutes at the same time a threat to the safety and existence of the other, agree to co-operate in the maintenance of their national security, it being understood that

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[1] Manchoukuo Government, Publication of the Department of Foreign Affairs, *Series No. 1,* 16. Other texts are printed from the Japanese *alternat* copy. In *Nouveau recueil général de traités,* 3^e série, XXVIII, 671, the title is given as "protocol for the establishment of good neighbor relations."

[2] "Threat to the territory" was omitted from the copy first transmitted to the League of Nations on September 16, 1932, *Records of the Special Session of the Assembly,* 1932–   , III, 79 (*Official Journal,* Spec. Sup. No. 111).

such Japanese forces as may be necessary for this purpose shall be stationed in Manchoukuo.

The present Protocol shall come into effect from the date of its signature.

The present Protocol has been drawn up in Chinese and Japanese, two identical copies being made in each language. Should any difference arise in regard to interpretation between the Chinese and the Japanese texts, the Japanese text shall prevail.

In witness whereof the undersigned, duly authorized by their respective Governments, have signed the present Protocol and have affixed their seals thereto.

Done at Hsinking, this fifteen day of the ninth month of the first year of Ta-tung, corresponding to the fifteenth day of the ninth month of the seventh year of Showa.

(L.S.) CHENG HSIAO-HSU,
Prime Minister of Manchoukuo.
(L.S.) NOBUYOSHI MUTO,
Ambassador Extraordinary and Plenipotentiary of His Majesty the Emperor of Japan.

2. Recommendations Adopted by the Assembly of the League of Nations, February 24, 1933[3]

PART IV

STATEMENT OF THE RECOMMENDATIONS

This part sets forth the recommendations which the Assembly deems just and proper in regard to the dispute.

Section I

The recommendations of the Assembly take into account the very special circumstances of this case and are based on the following principles, conditions and considerations:

(*a*) The settlement of the dispute should observe the provisions of the Covenant of the League, the Pact of Paris and the Nine-Power Treaty of Washington.

Article 10 of the Covenant of the League provides that "the Members of the League undertake to respect and preserve as against external aggression the territorial integrity and existing political independence of all Members of the League."

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[3] *Records of the Special Session of the Assembly,* 1932– , IV, 73 (*Official Journal,* Spec. Sup. No. 112); also separately in A. (Extr.). 22. 1933. VII. 2.

According to Article II of the Pact of Paris, "the High Contracting Parties agree that the settlement or solution of all disputes or conflicts of whatever nature, or of whatever origin they may be, which may arise among them, shall never be sought except by pacific means."

According to Article 1 of the Nine-Power Treaty of Washington, "the Contracting Powers, other than China, agree to respect the sovereignty, the independence, and the territorial and administrative integrity of China."

(*b*) The settlement of the dispute should observe the provisions of Parts I and II of the Assembly resolution of March 11, 1932.

In that resolution, which has already been quoted in this report, the Assembly considered that the provisions of the Covenant were entirely applicable to the present dispute, more particularly as regards:

(1) The principle of a scrupulous respect for treaties;

(2) The undertaking entered into by Members of the League of Nations to respect and preserve as against external aggression the territorial integrity and existing political independence of all the Members of the League;

(3) Their obligation to submit any dispute which may arise between them to procedures for peaceful settlement.

The Assembly has adopted the principles laid down by the President-in-Office of the Council in his declaration of December 10, 1931 and has recalled the fact that twelve members of the Council had again invoked those principles in their appeal to the Japanese Government on February 16, 1932, when they declared that no infringement of the territorial integrity and no change in the political independence of any Member of the League brought about in disregard of Article 10 of the Covenant ought to be recognized as valid and effectual by Members of the League.

The Assembly has stated its opinion that the principles governing international relations and the peaceful settlement of disputes between Members of the League above referred to are in full harmony with the Pact of Paris. Pending the steps which it might ultimately take for the settlement of the dispute which had been referred to it, it has proclaimed the binding nature of the principles and provisions referred to above and declared that it was incumbent upon the Members of the League not to recognize any situation, treaty or agreement which might be brought about by means contrary to the Covenant of the League of Nations or to the Pact of Paris.

Lastly, the Assembly has affirmed that it is contrary to the spirit of the Covenant that the settlement of the Sino-Japanese dispute should be sought under the stress of military pressure on the part of either party, and has recalled the resolutions adopted by the Council on September 30 and December 10, 1931 in agreement with the parties.

(*c*) In order that a lasting understanding may be established between China and Japan on the basis of respect for the international undertakings mentioned above, the settlement of the dispute must conform to the principles and conditions laid down by the Commission of Inquiry in the following terms:

"*1. Compatibility with the interests of both China and Japan.*

"Both countries are Members of the League and each is entitled to claim the same consideration from the League. A solution from which both did not derive benefit would not be a gain to the cause of peace.

"*2. Consideration for the interests of the Union of Soviet Socialist Republics.*

"To make peace between two of the neighboring countries without regard for the interests of the third would be neither just nor wise, nor in the interests of peace.

"*3. Conformity with existing multilateral treaties.*

"Any solution should conform to the provisions of the Covenant of the League of Nations, the Pact of Paris and the Nine-Power Treaty of Washington.

"*4. Recognition of Japan's interests in Manchuria.*

"The rights and interests of Japan in Manchuria are facts which can not be ignored, and any solution which failed to recognize them and to take into account also the historical associations of Japan with that country would not be satisfactory.

"*5. The establishment of new treaty relations between China and Japan.*

"A restatement of the respective rights, interests and responsibilities of both countries in Manchuria in new treaties, which shall be part of the settlement by agreement, is desirable if future friction is to be avoided and mutual confidence and co-operation are to be restored.

"6. *Effective provision for the settlement of future disputes.*

"As a corollary to the above, it is necessary that provision should be made for facilitating the prompt settlement of minor disputes as they arise.

"7. *Manchurian autonomy.*

"The Government in Manchuria should be modified in such a way as to secure, consistently with the sovereignty and administrative integrity of China, a large measure of autonomy designed to meet the local conditions and special characteristics of the Three Provinces. The new civil regime must be so constituted and conducted as to satisfy the essential requirements of good government.

"8. *Internal order and security against external aggression.*

"The internal order of the country should be secured by an effective local gendarmerie force, and security against external aggression should be provided by the withdrawal of all armed forces other than the gendarmerie, and by the conclusion of a treaty of nonaggression between the countries interested.

"9. *Encouragement of an economic rapprochement between China and Japan.*

"For this purpose, a new commercial treaty between the two countries is desirable. Such a treaty should aim at placing on an equitable basis the commercial relations between the two countries and bringing them into conformity with their improved political relations.

"10. *International co-operation in Chinese reconstruction.*

"Since the present political instability in China is an obstacle to friendship with Japan and an anxiety to the rest of the world (as the maintenance of peace in the Far East is a matter of international concern), and since the conditions enumerated above can not be fulfilled without a strong Central Government in China, the final requisite for a satisfactory solution is temporary international co-operation in the internal reconstruction of China, as suggested by the late Dr. Sun Yat-sen."

Section II

The provisions of this section constitute the recommendations of the Assembly under Article 15, paragraph 4, of the Covenant.

Having defined the principles, conditions and considerations applicable to the settlement of the dispute,

The Assembly recommends as follows:

1. Whereas the sovereignty over Manchuria belongs to China,

A. Considering that the presence of Japanese troops outside the zone of the South Manchuria Railway and their operations outside this zone are incompatible with the legal principles which should govern the settlement of the dispute, and that it is necessary to establish as soon as possible a situation consistent with these principles,

The Assembly recommends the evacuation of these troops. In view of the special circumstances of the case, the first object of the negotiations recommended hereinafter should be to organize this evacuation and to determine the methods, stages and time limits thereof.

B. Having regard to the local conditions special to Manchuria, the particular rights and interests possessed by Japan therein, and the rights and interests of third states,

The Assembly recommends the establishment in Manchuria, within a reasonable period, of an organization under the sovereignty of, and compatible with the administrative integrity of, China. This organization should provide a wide measure of autonomy, should be in harmony with local conditions and should take account of the multilateral treaties in force, the particular rights and interests of Japan, the rights and interests of third states, and, in general, the principles and conditions reproduced in Section I (*c*) above; the determination of the respective powers of and relations between the Chinese Central Government and the local authorities should be made the subject of a declaration by the Chinese Government having the force of an international undertaking.

2. Whereas, in addition to the questions dealt with in the two recommendations 1*A* and 1*B*, the report of the Commission of Inquiry mentions in the principles and conditions for a settlement of the dispute set out in Section I (*c*) above certain other questions affecting the good understanding between China and Japan, on which peace in the Far East depends,

The Assembly recommends the parties to settle these questions on the basis of the said principles and conditions.

3. Whereas the negotiations necessary for giving effect to the foregoing recommendations should be carried on by means of a suitable organ,

The Assembly recommends the opening of negotiations between the two parties in accordance with the method specified hereinafter.

Each of the parties is invited to inform the Secretary-General whether it accepts, so far as it is concerned, the recommendations of the Assembly, subject to the sole condition that the other party also accepts them.

The negotiations between the parties should take place with the assistance of a Committee set up by the Assembly as follows: The Assembly hereby invites the Governments of Belgium, Great Britain, Canada, Czechoslovakia, France, Germany, the Irish Free State, Italy, the Netherlands, Portugal, Spain and Turkey each to appoint a member of the Committee as soon as the Secretary-General shall also notify the Governments of the United States of America and of the Union of Soviet Socialist Republics of this acceptance and invite each of them to appoint a member of the Committee should it so desire. Within one month after having been informed of the acceptance of the two parties, the Secretary-General shall take all suitable steps for the opening of negotiations.

In order to enable the Members of the League, after the opening of negotiations, to judge whether each of the parties is acting in conformity with the Assembly's recommendations:

(*a*) The Committee will, whenever it thinks fit, report on the state of the negotiations, and particularly on the negotiations with regard to the carrying out of recommendations 1*A* and *B* above; as regards recommendations 1A, the Committee will in any case report within three months of the opening of negotiations. These reports shall be communicated by the Secretary-General to the Members of the League and to the non-Member states represented on the Committee;

(*b*) The Committee may submit to the Assembly all questions relating to the interpretation of Section II of Part IV of the present report. The Assembly shall give this interpretation in the same conditions as those in which the present report is adopted, in conformity with Article 15, paragraph 10, of the Covenant.

Section III

In view of the special circumstances of the case, the recommendations made do not provide for a mere return to the *status quo* existing before September 1931. They likewise exclude the maintenance and recognition of the existing regime in Manchuria, such maintenance and recognition being incompatible with the fundamental principles of existing international obligations and with the good understanding between the two countries on which peace in the Far East depends.

It follows that, in adopting the present report, the Members of the League intend to abstain, particularly as regards the existing regime in Manchuria, from any act which might prejudice or delay the carrying out of the recommendations of the said report. They will continue not to recognize this regime either *de jure* or *de facto*. They intend to abstain from taking any isolated action with regard to the situation in Manchuria and to continue to concert their action among themselves as well as with the interested states not Members of the League. As regards the Members of the League who are signatories of the Nine-Power Treaty, it may be recalled that, in accordance with the provisions of that Treaty: "Whenever a situation arises which, in the opinion of any one of them, involves the application of the stipulations of the present Treaty and renders desirable discussion of such application, there shall be full and frank communication between the contracting powers concerned."

In order to facilitate as far as possible the establishment in the Far East of a situation in conformity with the recommendations of the present report, the Secretary-General is instructed to communicate a copy of this report to the states non-Members of the League who are signatories of, or have acceded to, the Pact of Paris or the Nine-Power Treaty, informing them of the Assembly's hope that they will associate themselves with the views expressed in the report, and that they will, if necessary, concert their action and their attitude with the Members of the League.

INDORSEMENT BY THE UNITED STATES, FEBRUARY 25, 1933 [4]

In the situation which has developed out of the controversy between China and Japan, the purpose of the United States has coincided in general with that of the League of Nations, the common objective being maintenance of peace and settlement of international disputes by pacific means. In pursuance of that objective, while the League of Nations has been exercising jurisdiction over a controversy between two of its Mem-

[4] *Records of the Special Session of the Assembly,* 1932– , IV, 97 (*Official Journal,* Spec. Sup. No. 112).

bers, the Government of the United States has endeavored to give support, reserving to itself independence of judgment with regard to method and scope to the efforts of the League on behalf of peace.

The findings of fact arrived at by the League and the understanding of the facts derived by the American Government from reports made to it by its own representatives are in substantial accord. In the light of its findings of fact, the Assembly of the League has formulated a measured statement of conclusions. With those conclusions, the American Government is in general accord. In their affirmations, respectively of the principle of non-recognition and their attitude in regard thereto, the League and the United States are on common ground. The League has recommended principles of settlement. In so far as appropriate under the treaties to which it is a party, the American Government expresses its general indorsement of the principles thus recommended.

The American Government earnestly hopes that the two nations now engaged in controversy, both of which have long been in friendly relationship with our own and other peoples, may find it possible in the light of world opinion to conform their policies to the need and the desire of the family of nations that disputes between nations shall be settled by none but pacific means.

(Signed) HENRY L. STIMSON.

3. Resolution Providing for the Far East Advisory Committee adopted by the Assembly of the League of Nations, February 24, 1933 [5]

Whereas in virtue of Article 3, paragraph 3, of the Covenant, the Assembly may deal at its meetings with any matter affecting the peace of the world, and therefore can not regard with indifference the development of the Sino-Japanese dispute;

And whereas, according to Part IV, section III, of the report adopted by the Assembly in virtue of Article 15, paragraph 4, the Members of the League "intend to abstain from taking any isolated action with regard to the situation in Manchuria and to continue to concert their action among themselves as well as with the interested states not Members of the League" and, "in order to facilitate as far as possible the establishment in the Far East of a situation in conformity with the recommendations of the present report, the Secretary-General is instructed to communicate a copy of this report to the states non-Members of the League who are signatories of or have acceded to the Pact of Paris or of the Nine-Power Treaty, informing them of the Assembly's hope that they will associate themselves with the views expressed in the report, and that they will, if necessary, concert their action and their attitude with the Members of the League";

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[5] *Records of the Special Session of the Assembly,* 1932– , IV, 24, 28 (*Official Journal,* Spec. Sup. No. 112).

The Assembly decides to appoint an Advisory Committee to follow the situation, to assist the Assembly in performing its duties under Article 3, paragraph 3, and, with the same objects, to aid the Members of the League in concerting their action and their attitude among themselves and with the non-Member states.

The Committee will consist of the members of the Committee of Nineteen and the representatives of Canada and the Netherlands.

The Committee will invite the Governments of the United States of America and the U.S.S.R.[6] to co-operate in its work.

It shall report and make proposals to the Assembly whenever it thinks fit. It shall also communicate its reports to the Governments of the states non-Members of the League which are co-operating in its work.

The Assembly shall remain in session and its president, after consulting the Committee, may convene it whenever he thinks fit.

Participation of the United States, March 11, 1933[7]

In reply I am happy to inform you that the American Government is prepared to co-operate with the Advisory Committee in such manner as may be found appropriate and feasible. As it is necessary that the American Government exercise independence of judgment with regard to proposals which may be made and/or action which the Advisory Committee may recommend, it would seem that appointment by it of a representative to function as a member of the Committee would not be feasible. However, believing that participation by a representative of this Government in the deliberations of the Committee would be helpful, I am instructing the American

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[6] The Soviet Union did not accept the invitation (*ibid.*, 98).

[7] *Records of the Special Session of the Assembly*, 1932– , IV, 99 (*Official Journal*, Spec. Sup. No. 112).

Minister to Switzerland, Mr. Hugh R. Wilson, to be prepared to participate, but without right to vote, if such participation is desired.

(Signed) CORDELL HULL.

4. Measures Consequent upon the Non-Recognition of "Manchukuo": Recommendations of the Far East Advisory Committee, June 14, 1933[8]

. . . .

The Advisory Committee has thought it expedient to inquire into the question of the consequences that might be involved for Governments by the non-recognition of the existing regime in Manchuria. It calls the attention of Members of the League to the desirability of the measures described below being taken by each of them so far as it is concerned. It desires to add that, in its capacity of an advisory body, it remains at the disposal of Members of the League for the examination of any question, within the scope of its terms of reference, which they may request it to study with a view to giving them its opinion and proposing concerted action to the Governments.

The problems that the Advisory Committee has so far investigated are the following: question of the participation of the present Government of Manchuria in international conventions; postal services and stamps; question of the international non-recognition of the currency of "Manchukuo"; problems that may be raised by the acceptance by foreigners of concessions or appointments in Manchuria; question of passports; position of consuls; application of the import and export certificate system under the Geneva Opium Convention (1925) and the Limitation Convention (1931).

I. It is clear that, in deciding to continue not to recognize either *de jure* or *de facto* the existing regime in Manchuria, the Members of the League of Nations had in view that, should "Manchukuo" manifest its intention of acceding to certain general international conventions, they would take all steps in their power to prevent such accession. Some of these conventions have created international unions or bureaus, participation in which is only possible by way of accession to the convention by which they were created.

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[8] Excerpt from annex to C.L. 117(*a*).1933.VII., being a letter of June 14, 1933, from the Secretary-General to the Members of the League and the non-Member states to which the Assembly report of February 24, 1933, was communicated (*Records of the Special Session of the Assembly,* 1932– , V, 11). The acceptance of the measures by states is set forth in a note of the Secretary-General dated November 8, 1933 (*Official Journal,* 1934, 17).

The Advisory Committee when it established the measures consisted of representatives of the following Governments: Belgium, Canada, Colombia, Czechoslovakia, France, Germany, Guatemala, Hungary, Irish Free State, Italy, Mexico, Netherlands, Norway, Panama, Poland, Portugal, Spain, Sweden, Switzerland, Turkey, the United Kingdom, and the United States under the conditions stipulated in its letter of March 11, 1933. The United States "concurred, except in a few particulars" (*Ibid.,* 17).

The Committee has examined the various general international conventions in order to ascertain by what procedure the Members of the League could take steps, in conformity with the Assembly's recommendation, in the event of "Manchukuo" signifying a desire to accede to such conventions. From this point of view, these conventions may be classified as follows:

(*a*) Closed conventions, under which the parties have to be consulted as to the admission of new members. In such cases, the Members of the League will act in conformity with the Assembly's recommendation by refusing to agree to the admission of "Manchukuo."

(*b*) Open conventions. These conventions provide that states shall be allowed to accede by unilateral act. In view of the special case of "Manchukuo" and the attitude adopted by the Members of the League toward that regime, the Advisory Committee has decided to propose that the States with which acts of accession are deposited should previously consult the contracting parties to the convention in question, should the "Manchukuo Government" express a desire to accede thereto. Should they be so consulted in regard to one or more of these conventions by the State with which an act of accession is deposited, those of the Members of the League who are contracting parties to the convention would have an opportunity to give, in conformity with the Assembly's recommendation, a negative opinion as to the acceptance of the accession of "Manchukuo," and the result of the consultation would enable the States with which the acts of accession are deposited to rely, in their reply to the applicant, upon the opinion of other contracting States.

In respect more particularly of the Conventions mentioned hereinafter, the Governments that might have occasion thus to consult the other contracting States are those of Belgium, Spain, France, Italy, the Netherlands and Switzerland.[9]

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[9] The United Kingdom on July 13, 1933, noted that the following appeared to have been omitted: International Convention for the

Belgium: Convention of December 31, 1913, for the Constitution of an International Bureau of Commercial Statistics.

Convention of March 15, 1886, for the International Exchange of Official Documents and of Scientific and Literary Publications.

Convention of July 5, 1890, establishing an International Union for the Publication of Customs Tariffs.

Spain: International Convention on Telecommunications, Madrid, December 9, 1932, establishing the International Union for Telecommunications.

France: Convention on the Regulation of Aerial Navigation, Paris, October 13, 1919 (Article 41).

Convention concerning International Exhibitions, Paris, November 22, 1928.

Agreement for the Constitution of an International Office for dealing with Contagious Diseases of Animals, Paris, January 25, 1924.

Convention for the Constitution of an International Office of Chemistry, October 29, 1927.

Metric Convention, signed May 20, 1875, revised 1921, respecting the Constitution of an International Office of Weights and Measures.

Sanitary Convention, opened for signature at Paris on June 26, 1926.

Italy: International Agreement respecting the Constitution of an International Office of Public Health, Rome, December 9, 1907.

Netherlands: Conventions signed at the Second Hague Conference (1907).

International Opium Convention, signed at The Hague on January 23, 1912.

International Sanitary Convention for Air Navigation, 1933.

Switzerland: Convention regarding Industrial Property (establishing the International Office of the Union for the Protection of Industrial Property; first convention concluded 1883, revised 1925).

Convention for the Constitution of an International Union for the Protection of Literary and Artistic Works (first Convention concluded September 9, 1886, revised 1928).

Safety of Life at Sea, signed at London, May 31, 1929, and the International Convention respecting Load-Lines, signed at London, July 5, 1930.

Universal Postal Convention (latest revised text, London, June 28, 1929).

Geneva convention for the Amelioration of the Condition of the Wounded and Sick in Armies in the Field (Red Cross Convention) signed at Geneva on July 27, 1929.

Convention relating to the Treatment of Prisoners of War.

In regard to the Treaty for the Renunciation of War (Pact of Paris), the Government of the United States of America might be looked upon as occupying a position similar to that of the Governments of those States Members of the League with which Conventions have been deposited.

(*c*) Conventions concluded under the auspices of the League of Nations. As the majority of the conventions concluded under the auspices of the League are open for subsequent accession in accordance with decisions taken by the Council of the League alone, no action on the part of the States parties to those conventions is called for.

As regards such of these conventions as are open, the Secretary-General of the League could not receive any accession from "Manchukuo," and, in the case of the Conventions for the Supervision of the Trade in Arms and Ammunition and the Prohibition of the Use of Asphyxiating Gases, the French Government has been requested to refer, if necessary, to the States parties to those conventions.

Certain conventions, such as the Hague Convention for the Pacific Settlement of International Disputes and the Protocol of Signature concerning the Statute of the Permanent Court of International Justice, contain accession clauses having the same effect as an automatic exclusion of "Manchukuo." As in the case of the conventions open to accession in accordance with decisions taken by the Council of the League, no action on the part of the contracting parties to these conventions is called for.

The Advisory Committee has also examined the statutes of certain international commissions and associations not set up under international conventions. It considers that, inasmuch as these bodies are not set up under the provisions of an international convention, there can be no question of drawing conclusions regarding the *de jure* recognition of a State from the admission to or participation in these commissions or associations of a delegate of any public authority whatever. Moreover, no conclusion regarding a *de facto* recognition can be drawn from the admission to or participation in these bodies of a delegate appointed by a public authority, if these bodies also include delegations of administrations or private associations. It is, however, desirable even in this latter case that the States Members of the League represented in these organizations should take all steps in their power to avoid the participation of representatives of "Manchukuo."

II. With regard to postal services, the Chinese Government intimated on July 24, 1932, that, in virtue of Article 27 of the Universal Postal Convention, it had requested the Universal Postal Union to notify all member States as follows:

(1) That all postal service in Manchuria has been temporarily suspended;[10]

(2) That all mails destined for Europe and America will henceforth be forwarded respectively via the Suez Canal and the Pacific Ocean; the Chinese Government requests that all post offices of the member States will do the same with their mails destined for China;

(3) That all stamps issued by the puppet government will be invalid. All mail matter or parcels bearing these illegal stamps will be charged postage due.

Apart from this communication from the Chinese Government, the Advisory Committee thinks it will suffice to remind the Members of the League that "Manchukuo" is not a member of the Universal Postal Union, and of the measures proposed above, should the question of its accession to the Universal Postal Convention arise.

III. After considering the currency question, the Advisory Committee has arrived at the conclusion that a domestic currency is created by a domestic law, and is actually utilized in the same way as any other object of value that is bought or sold in the international market. The Committee thinks it inexpedient to propose that Governments should pass legislation prohibiting transactions in "Manchukuo" currency, but it desires to call the attention of countries which have an official foreign exchange market to the desirability of taking any useful measures in order not to admit official quotations in "Manchukuo" currency.

IV. While recognizing that the report adopted by the Assembly under Article 15, paragraph 4, of the Covenant does not prohibit nationals of States Members of the League from entering into contractual relations with anyone in Manchuria, nor from accepting concessions or appointments from the authorities established there, the Committee feels that it rests with each of the Members of the League to decide for itself whether it is desirable to call the attention of its nationals to the special risks attendant upon the acceptance of concessions or appointments in Manchuria. In this sense, a Government might urge the difficulty it might experience in protecting such nationals, in view of the position created by the Assembly's report, and also the probable attitude of the Chinese authorities with regard to the validity of such concessions or appointments obtained in the present circumstances from the authorities established in Manchuria.

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[10] On payment of accounts for mail in transit, see *Official Journal,* 1934, 429.

V. In the Committee's opinion, a Government which did not recognize the existing regime in Manchuria either *de jure* or *de facto* could not regard as a passport a document issued by authorities dependent on the "Manchukuo Government," and could not, therefore, allow any of its own agents to visa such a document. On the other hand, there is no reason why an inhabitant of the territory subject to the "Manchukuo" authorities who is desirous of proceeding abroad should not receive an identity document or a *laissez-passer* from the consul of the country which he wishes to visit. The same procedure might be adopted as regards countries of transit, unless the authorities of the countries of transit were willing—as, in fact, they probably would be—to visa the identity document or *laissez-passer* issued by the authorities of the country of destination. The consul would have to make sure of the identity of the applicant, and there would be no reason why he should not, for this purpose, utilize the documents issued by the "Manchukuo" authorities and called by the latter passports, *laissez-passer,* etc.

The above considerations, which apply to ordinary passports, apply with even greater force to diplomatic passports or diplomatic visas on diplomatic or ordinary passports.

VI. The Committee considers that States Members of the League of Nations can, without infringing the report adopted by the Assembly, make provision, if necessary, for replacing their consuls in Manchuria. The dispatch of consuls under the circumstances does not imply recognition of "Manchukuo," as those agents are appointed for the purpose of keeping their Governments informed and protecting their nationals. Moreover, it is in conformity with the Assembly's recommendations that Governments should remind their consuls that so far as possible, particularly in such contacts as their duties may lead them to make for that purpose, they should do nothing which could be interpreted expressly or by implication as a declaration that they regard the authorities established in Manchuria as the proper Government of the country.

Every Government may, when appointing its consuls in Manchuria, be guided by its special juridical situation as regards China, and, if necessary, by the precedents followed in certain parts of China such as Canton, the authorities of which have not, at certain times, recognized the authority of the Central Governments.

VII. With reference to the Geneva Opium Convention of 1925, Chapter V, the Committee recommends to Members of the League and to interested States non-members that applications for the export to "Manchukuo" territory of opium or other dangerous drugs should not be granted unless the applicant produces an import certificate in accordance with the convention of such a nature as to satisfy the Government to which application is made that the goods in question are not to be imported into "Manchukuo" territory for a purpose which is contrary to the convention. A copy of the export authorization should accompany the consignment, but Governments should refrain from forwarding a second copy of the export authorization to "Manchukuo," since such action might be interpreted as a *de facto* recognition of "Manchukuo."

5. Agreement for Cession of the Chinese Eastern Railway by the U.S.S.R. to Manchoukuo, March 23, 1935 [11]

[*Excerpt*]

Article I. The Government of the Union of Soviet Socialist Republics shall cede to the Government of Manchoukuo all the rights they possess concerning the North Manchuria Railway (Chinese Eastern Railway), in consideration of which the Government of Manchoukuo shall pay to the Government of the Union of Soviet Socialist Republics the sum of one hundred and forty million (140,000,000) yen in Japanese currency.

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[11] *Nouveau recueil général de traités*, 3e série, XXX, 649; *Contemporary Japan*, IV (1935–36), 142; *Contemporary Manchuria*, I, No. 2, 43.

Article II. All the rights of the Government of the Union of Soviet Socialist Republics concerning the North Manchuria Railway (Chinese Eastern Railway) shall pass to the Government of Manchoukuo upon the coming into force of the present Agreement, and at the same time the North Manchuria Railway (Chinese Eastern Railway) shall be placed under the complete occupation and the sole management of the Government of Manchoukuo. . . .

Article IV. The Government of Manchoukuo shall succeed to the assets and liabilities of the North Manchuria Railway (Chinese Eastern Railway) in accordance with the list of assets and liabilities of the Railway as on December 31, 1933, presented by the Delegation of the Government of the Union of Soviet Socialist Republics on March 22, 1934, to the Delegation of the Government of Manchoukuo through the Minister for Foreign Affairs of Japan, as supplemented by the lists which were made on March 17 and March 21, 1935, in order to show the changes sustained by the assets and liabilities included in the first list from the date of the first list up to the date of the last list and also to show the new assets and liabilities which have arisen on and after January 1, 1934. . . .

Article VII. Out of the sum of one hundred and forty million (140,000,000) yen in Japanese currency referred to in Article I of the present Agreement, the sum of forty-six million seven hundred thousand (46,700,000) yen shall be paid in cash in accordance with the provisions of Article VIII of the present Agreement, and the settlement for the remaining sum of ninety-three million three hundred thousand (93,-300,000) yen shall be effected in the form of payments made by the Government of Manchoukuo for goods delivered to the Government of the Union of Soviet Socialist Republics in accordance with the provisions of Article IX of the present Agreement.[12]

Article VIII. Out of the sum of forty-six million seven hundred thousand (46,700,000) yen to be paid in cash in accordance with the provisions of Article VII of the present Agreement, the sum of twenty-three million three hundred thousand (23,300,000) yen shall be paid simultaneously with the signing of the present Agreement.

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[12] The guaranty was embodied in an exchange of notes between Japan and the U.S.S.R., *Nouveau recueil général de traités,* 3^e série, XXX, 666.

The remaining sum of twenty-three million four hundred thousand (23,400,000) yen as well as the simple interest at the rate of three per cent. per annum is to be paid by the Government of Manchoukuo to the Government of the Union of Soviet Socialist Republics in the form of the Treasury Bonds of the Government of Manchoukuo. The said Treasury Bonds are to be issued of the following amounts and mature on the dates indicated hereunder: six million three hundred and seventy-six thousand five hundred (6,376,500) yen maturing on December 23, 1935; six million two hundred and forty-four thousand eight hundred and seventy-five (6,244,875) yen maturing on September 23, 1936; six million one hundred and thirteen thousand two hundred and fifty (6,113,250) yen maturing on June 23, 1937; five million nine hundred and eighty-one thousand six hundred and twenty-five (5,981,625) yen maturing on March 23, 1938. The Treasury Bonds of the Government of Manchoukuo mentioned above are to be issued in favor of the Government of the Union of Soviet Socialist Republics and are to be delivered by the Representative of the Government of Manchoukuo to the Representative of the Government of the Union of Soviet Socialist Republics simultaneously with the signing of the present Agreement, and shall be paid at the Industrial Bank of Japan, Ltd. . . .

Article IX. 1. The Trade Representation of the Union of Soviet Socialist Republics in Japan will make contracts for the purchase of goods produced or manufactured in Manchoukuo or Japan, with the subjects or juridical persons of either of these two countries, up to the sum of ninety-three million three hundred thousand (93,300,000) yen indicated in Article VII within the period of six months from the date of the coming into force of the present Agreement. The delivery of the goods thus purchased shall be effected to the Trade Representation in Japan by the above-mentioned subjects or juridical persons within the period of three years from the date of the coming into force of the present Agreement in accordance with the terms of the contracts concerned, it being understood that the goods so delivered in the course of each of the six equal periods of six months constituting the said three years shall not exceed in value the sum of thirty-one million one hundred thousand (31,100,000) yen and that the total amount of the goods delivered in the course of each of the three equal periods of one year constituting the said three years shall not exceed in value the sum of thirty-one million one hundred thousand (31,100,000) yen.

6. It is understood that in the present Article the term "goods manufactured in Manchoukuo or Japan" indicates goods manufactured within either of the said two countries from raw materials imported from any other countries as well as from raw materials produced in either and that the term "Juridical persons of Manchoukuo or Japan" indicates the juridical persons which are or may be incorporated in accordance with the law of Manchoukuo or Japan respectively.

B. THE EASTERN ASIA POLICY

1. Japan's Notification of Intention to Withdraw from the League of Nations, March 24, 1933 [13]

[*Excerpt*]

. . . The Japanese Government, ever since the Sino-Japanese dispute was, in September 1931, submitted to the League, have, at meetings of the League and on other occasions, continually set forward a consistent view. This was that, if the League was to settle the issue fairly and equitably, and to make a real contribution to the promotion of peace in the Orient, and thus enhance its prestige, it should acquire a complete grasp of the actual conditions in this quarter of the globe and apply the Covenant of the League in accordance with these conditions. They have repeatedly emphasized and insisted upon the absolute necessity of taking into consideration the fact that China is not an organized State; that its internal conditions and external relations are characterized by extreme confusion and complexity and by many abnormal and exceptional features; and that, accordingly, the general principles and usages of international law which govern the ordinary relations between nations are found to be considerably modified in their operation so far as China is concerned, resulting in the quite abnormal and unique international practices which actually prevail in that country.

However, the majority of the Members of the League evinced, in the course of its deliberations during the past seventeen months, a failure either to grasp these realities or else to face them and take them into proper account. Moreover, it has frequently been made manifest in these deliberations that there exist serious differences of opinion between Japan and these Powers concerning the application and even the interpretation of various international engagements and obligations, including the Covenant of the League and the principles of international law. As a result, the report adopted by the Assembly at the special session of February 24 last, entirely misapprehending the spirit of Japan, pervaded as it is by no other desire than the maintenance of peace in the Orient, contains gross errors both in the ascertainment of facts and in the conclusions deduced. In asserting that the action of the Japanese army at the time of the incident of September 18 and subsequently did not fall within the just limits of self-defense, the report assigned no reasons and came to an arbitrary conclusion, and in ignoring alike the state of tension which preceded, and the various aggravations which succeeded, the incident—for all of which the full responsibility is incumbent upon China—the report creates a source of fresh conflict in the political arena of the Orient. By refusing to acknowledge the actual circumstances that led to the foundation of Manchukuo, and by attempting to challenge the position taken up by Japan in recognizing the new State, it cuts away the ground for the stabilization of the Far-Eastern situation. Nor can the terms laid down in its recommendations—as was fully explained in the statement issued by this Government on February 25 last—ever be of any possible service in securing enduring peace in these regions.

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[13] League of Nations, *Official Journal*, 1933, 657.

The conclusion must be that, in seeking a solution of the question, the majority of the League have attached greater importance to upholding inapplicable formulae than to the real task of assuring peace, and higher value to the vindication of academic theses than to the eradication of the sources of future conflict. For these reasons, and because of the profound differences of opinion existing between Japan and the majority of the League in their interpretation of the Covenant and of other treaties, the Japanese Government have been led to realize the existence of an irreconcilable divergence of views, dividing Japan and the League on policies of peace, and especially as regards the fundamental principles to be followed in the establishment of a durable peace in the Far East. The Japanese Government, believing that, in these circumstances, there remains no room for further co-operation, hereby give notice, in accordance with the provisions of Article I, paragraph 3, of the Covenant, of the intention of Japan to withdraw from the League of Nations.

(*Signed*) COUNT YASUYA UCHIDA,
Minister for Foreign Affairs of Japan.

2. The Tangku Truce Agreement, May 31, 1933[14]

Having accepted on the twenty-fifth day of May, 1933 the proposal for the termination of hostilities made by Lieut.-Gen. Hsiung Ping, Chief of Staff to the Peiping Branch Military Council under authorization from Gen. Ho Ying-chin, Chairman of the said Council;

Gen. Nobuyoshi Muto, Commander-in-Chief of the Kwantung Army, has authorized Maj.-Gen. Neji Okamura, Chief of Staff of the Kwantung Army, to sign as representative of the Kwantung Army with Lieut.-Gen. Hsiung Ping, as representative of the Chinese Army in North China, duly authorized by Gen. Ho Ying-chin, the following Truce Agreement.

First—The Chinese Army shall immediately withdraw to the regions west and south of the line from Yenching to Changping, Kaoliyung, Shunyi, Tungchow, Hsiangho, Paoti, Lintingkow, Ningho and Lutai and undertakes not to advance beyond that line and to avoid any provocation of hostilities.

Second—The Japanese Army may at any time use airplanes or other means to verify the carrying out of the above article. The Chinese authorities shall afford them protection and facilities for such purposes.

Third—The Japanese Army after ascertaining the withdrawal of the Chinese Army to the line stated in Article I, undertakes not to cross the said line and not to continue to attack the Chinese troops and shall voluntarily withdraw to the Great Wall.

Fourth—In the regions to the south of the Great Wall and to the north and east of the line as defined in Article I the maintenance of peace and order shall be undertaken by the Chinese police force.

The said police force shall not be constituted by armed units hostile to Japanese feelings.

Fifth—The present agreement shall come into effect upon its signature.

In faith whereof the two representatives have signed the present agreement and affixed thereto their seals.

(*Signed*) NEJI OKAMURA,
Representative of the Kwantung Army.
(*Signed*) HSIUNG PING,
Representative of the Chinese Army in North China.

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[14] *The Chinese Year Book,* 1936–37, 2d issue, p. 917; a summary text is printed in *Records of the Special Assembly,* 1932– , V, 9 (*Official Journal,* Spec. Sup. 113).

Declaration: In case there shall be in the demilitarized zone armed units disturbing peace and order which the police force shall be unable to cope with the situation will be dealt with by common accord between the two parties.

(*Signed*) Neji Okamura,
(*Signed*) Hsiung Ping.

May 31, 1933.

3. Statement by the Spokesman of the Japanese Foreign Office, April 18, 1934 [15]

Owing to the special position of Japan in its relations with China, its views and attitude [16] respecting matters that concern China may not agree in every point with those of foreign nations; but it must be realized that Japan is called upon to exert the utmost effort in carrying out its mission and in fulfilling its special responsibilities in East Asia. Japan has been compelled to withdraw from the League of Nations because of the failure of the States to agree [17] in their opinions on fundamental principles of preserving peace in East Asia. Although Japan's attitude toward China may at times differ from that of foreign countries, such difference can not be evaded owing to Japan's position and mission.

It goes without saying that Japan at all times is endeavoring to maintain and promote its friendly relations with foreign nations, but at the same time we consider it only natural that, to keep peace and order in East Asia,[18] we must even act alone on our own responsibility, and it is our duty to perform it. At the same time there is no country but China which is in a position to share with Japan the responsibility for maintenance of peace in East Asia.

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[15] The text of this statement as printed here follows the English versions published in the *New York Times,* April 21, and the London *Times,* April 24, 1934, annotated to an English text printed in the *Japan Advertiser,* April 18, 1934, and checked against a French version in *Documentation internationale,* II, 34. The original statement of the spokesman, Eiji Amau, seems to have been verbal only.

[16] *Japan Advertiser* reads "doctrines advocated by Japan."

[17] *Japan Advertiser* reads "because Japan and the League failed to agree."

[18] *Japan Advertiser* completes the paragraph thus: "it must act single-handed and upon its own responsibility. In order to be able to fulfill this obligation, Japan must expect its neighbor countries to share the responsibility of maintaining peace in East Asia, but Japan does not consider any other country except China to be in a position to share that responsibility with Japan."

Accordingly, unification of China, preservation of her territorial integrity as well as restoration of order in that country, are most ardently desired by Japan.[19] History shows these can be attained through no other means than awakening and voluntary efforts of China herself.

We oppose, therefore, any attempt on the part of China to avail herself of the influence of any other country in order to resist Japan; we also oppose any action taken by China calculated to play one Power against another. Any joint operations undertaken by foreign Powers even in the name of technical or financial assistance at this particular moment after the Manchurian and Shanghai incidents are bound to acquire political significance.[20] Undertakings of such nature, if carried through to the end, must give rise to complications that might eventually necessitate discussion of problems like division of China, which would be the greatest possible misfortune for China and at the same time would have most serious repercussions upon Japan and East Asia.

Japan, therefore, must object to such undertakings as a matter of principle, although it will not find it necessary to interfere with any foreign country negotiating individually with China on questions of finance or trade as long as such negotiations benefit China and are not detrimental to peace in East Asia.[21]

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[19] *Japan Advertiser* reads: "Accordingly, preservation of the unity of China, as well as restoration of order in that country, are two things ardently desired by Japan for the sake of peace in East Asia."

[20] More elaborately the *Japan Advertiser* text reads: "Japan will oppose any attempt of China to avail itself of the influence of some other country with the idea of repelling Japan, as this would jeopardize the peace in East Asia; and it will also oppose resort by China to any measure intended to 'resist foreigners by bringing other foreigners to bear against them.' Japan expects foreign nations to give consideration to the special situation created by the recent Manchurian and Shanghai incidents, and to realize that the undertaking of joint operations in regard to China, even if they be in regard to technical or financial assistance, must eventually attain political significance for China."

[21] Omitting the phrase "on questions of finance or trade," the *Japan Advertiser* adds: "If such negotiations are of a nature that might disturb peace and order in East Asia, Japan will be obliged to oppose them."

Nevertheless, supplying China with war aeroplanes, building aerodromes in China, and detailing military instructors or military advisers to China, or contracting a loan to provide funds for political uses, would obviously tend to make friendly relations difficult between Japan, China and other countries, and to disturb peace and order in Eastern Asia. Japan will oppose every project of such a kind.

The future attitude of Japan should be clear from policies she has pursued in the past, but, as it is reported that concrete maneuvers of foreign Powers with a view to common action in China are under way, it has not seemed inopportune to reiterate its political views at this time.[22]

4. Statement by the Japanese Minister for Foreign Affairs, April 26, 1934 [23]

Japan has not infringed upon China's independence or interests nor has she the intention to do so. In fact, she sincerely desires the preservation of territorial integrity of China and her unification and prosperity. These ends should fundamentally speaking, be attained by China herself through her self-awakening and voluntary efforts.

Japan has no intention to trespass upon the rights of other powers in China. Their bona fide financial and commercial activities will redound to the benefit of China which is quite welcome to Japan. She, of course, subscribes to the principles of the open door and equal opportunity in China. She is observing scrupulously all existing treaties and agreements concerning that country.

However, Japan cannot remain indifferent to anyone's taking action under any pretext, which is prejudicial to the maintenance of law and order in East Asia for which she, if only in view of her geographic position, has the most vital concern. Consequently, she cannot afford to have questions of China exploited by any third party for the execution of a selfish policy which does not take into consideration the above circumstances.

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[22] The *Japan Advertiser* text reads: "The foregoing attitude should be made clear by the policies followed by Japan in the past. But, due to the fact that gestures for joint assistance to China and for other aggressive assistance, by foreign countries, are becoming too conspicuous, it is deemed advisable to make known the foregoing policies."

[23] The French text of this English version is in *La documentation internationale,* I, 21, where it is stated to have been handed to the ambassadors of the United States and the United Kingdom at Tokyo; an alternative translation is in Wheeler-Bennett, John W., and Heald, Stephen, *Documents on International Affairs,* 1934, 475.

5. Statement by the United States Secretary of State, April 29, 1934 [24]

The American Ambassador to Japan, under instruction from the Department of State, called on the Japanese Minister for Foreign Affairs on April 29 and made a statement, the substance of which is as follows:

Recent indications of attitude on the part of the Japanese Government with regard to the rights and interests of Japan and other countries in China and in connection with China have come from sources so authoritative as to preclude their being ignored, and make it necessary that the American Government, adhering to the tradition of frankness that has prevailed in relations between it and the Government of Japan, reaffirm the position of the United States with regard to questions of rights and interests involved.

The relations of the United States with China are governed, as are our relations with Japan and our relations with other countries, by the generally accepted principles of international law and the provisions of treaties to which the United States is a party. The United States has with regard to China certain rights and certain obligations. In addition, it is associated with China or with Japan or with both, together with certain other countries, in multilateral treaties relating to rights and obligations in the Far East, and in one great multilateral treaty to which practically all the countries of the world are parties.

Treaties can lawfully be modified or terminated only by processes prescribed or recognized or agreed upon by the parties to them.

In the international associations and relationships of the United States, the American Government seeks to be duly considerate of the rights, the obligations and the legitimate interests of other countries, and it expects on the part of other Governments due consideration of the rights, the obligations and the legitimate interests of the United States. In the opinion of the American people and the American Government, no nation can, without the assent of the other nations concerned, rightfully endeavor to make conclusive its will in situations where there are involved the rights, the obligations and the legitimate interests of other sovereign States.

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[24] Department of State, *Press Releases,* May 5, 1934, 244.

The American Government has dedicated the United States to the policy of the good neighbor, and to the practical application of that policy it will continue, on its own part and in association with other Governments, to devote its best efforts.

6. Statement by Sir John Simon, Secretary of State for Foreign Affairs, April 30, 1934 [25]

The communication of His Majesty's Ambassador in Tokyo to the Japanese Minister for Foreign Affairs on April 25, which, as I informed the House the other day, was a friendly inquiry, was to the effect that the principle of equal rights in China was guaranteed very explicitly by the Nine-Power Treaty of 1922, to which Japan is a party, and that His Majesty's Government must, of course, continue to enjoy all rights in China which are common to all signatories or are otherwise proper, except in so far as their rights were restricted by agreements such as the consortium agreement, or in so far as Japan had special rights recognized by other powers and not shared by them.

Sir Francis Lindley added that the anxieties regarding China expressed in the Japanese statement could not apply to the United Kingdom, since it was the aim of British policy to avoid the dangers to peace and the integrity of China to which the statement referred. His Majesty's Government naturally could not admit the right of Japan alone to decide whether any particular action, such as the provision of technical or financial assistance, promoted such a danger, if that had indeed been the implication of the statement, which they did not believe. Under Articles 1 and 7 of the Nine-Power Treaty, Japan had the right to call the attention of the other signatories to any action in China inimical to her security. This right provided Japan with safeguards and His Majesty's Government, therefore, assumed that the statement was not intended in any way to infringe the common rights of other powers in China nor to infringe Japan's own treaty obligations.

In reply, Mr. Hirota, the Japanese Foreign Minister, indicated that His Majesty's Government were correct in this assumption. He assured His Majesty's Ambassador that Japan would observe the provisions of the Nine-Power Treaty and that the policy of the Japanese Government and of His Majesty's Government in regard to the treaty coincided. His Excellency stated, in conclusion, that Japan continued to attach the greatest importance to the maintenance of the open door in China and reaffirmed her acceptance of that policy.

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[25] United Kingdom, *Parliamentary Debates, House of Commons,* 5th series, 289, col. 13; Wheeler-Bennett, John W., and Heald, Stephen, *op. cit.,* 1934, 475–476.

. . . I think that the statement made by the Japanese Foreign Minister is reasonably clear, and His Majesty's Government are content to leave this particular question where it is. I would only add that His Majesty's Government are resolved to assist to the utmost possible extent the spirit of international co-operation in the progress of China toward peace and prosperity, and the maintenance of the spirit of harmony and goodwill in the Far East.

II. POLICY OF THE UNITED STATES

1. Identic Note Sent by the American Government to the Governments of China and Japan[1]

January 7, 1932.

With the recent military operations about Chinchow, the last remaining administrative authority of the Government of the Chinese Republic in South Manchuria, as it existed prior to September 18, 1931, has been destroyed. The American Government continues confident that the work of the neutral commission recently authorized by the Council of the League of Nations will facilitate an ultimate solution of the difficulties now existing between China and Japan. But in view of the present situation and of its own rights and obligations therein, the American Government deems it to be its duty to notify both the Government of the Chinese Republic and the Imperial Japanese Government that it can not admit the legality of any situation *de facto* nor does it intend to recognize any treaty or agreement entered into between those governments, or agents thereof, which may impair the treaty rights of the United States or its citizens in China, including those which relate to the sovereignty, the independence, or the territorial and administrative integrity of the Republic of China, or to the international policy relative to China, commonly known as the open-door policy; and that it does not intend to recognize any situation, treaty or agreement which may be brought about by means contrary to the covenants and obligations of the Pact of Paris of August 27, 1928, to which treaty both China and Japan, as well as the United States, are parties.

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[1] *Conditions in Manchuria,* 53–54 (Senate Document No. 55, 72nd Cong., 1st Session; Cong. Docs., Serial 9520); *Press Releases,* January 9, 1932, 41.

2. Letter from Secretary of State Henry L. Stimson to William E. Borah, Chairman, Committee on Foreign Relations, United States Senate, February 23, 1932 [2]

February 23, 1932.

My Dear Senator Borah:

You have asked my opinion whether, as has been sometimes recently suggested, present conditions in China have in any way indicated that the so-called Nine-Power Treaty has become inapplicable or ineffective or rightly in need of modification, and if so, what I considered should be the policy of this Government.

This treaty, as you of course know, forms the legal basis upon which now rests the "open-door" policy towards China. That policy, enunciated by John Hay in 1899, brought to an end the struggle among various powers for so-called spheres of interest in China which was threatening the dismemberment of that empire. To accomplish this Mr. Hay invoked two principles, (1) equality of commercial opportunity among all nations in dealing with China, and (2) as necessary to that equality the preservation of China's territorial and administrative integrity. These principles were not new in the foreign policy of America. They had been the principles upon which it rested in its dealings with other nations for many years. In the case of China they were invoked to save a situation which not only threatened the future development and sovereignty of that great Asiatic people, but also threatened to create dangerous and constantly increasing rivalries between the other nations of the world. War had already taken place between Japan and China. At the close of that war three other nations intervened to prevent Japan from obtaining some of the results of that war claimed by her. Other nations sought and had obtained spheres of interest. Partly as a result of these actions a serious uprising had broken out in China which endangered the legations of all of the powers at Peking. While the attack on those legations was in progress, Mr. Hay made an announcement in respect to this policy as the principle upon which the powers should act in the settlement of the rebellion. He said:

"The policy of the Government of the United States is to seek a solution which may bring about permanent safety and peace to China, preserve Chinese territorial and administrative entity, protect all rights guaranteed to friendly powers by treaty and international law, and safeguard for the world the principle of equal and impartial trade with all parts of the Chinese Empire."

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[2] Department of State, Publication No. 296.

He was successful in obtaining the assent of the other powers to the policy thus announced.

In taking these steps Mr. Hay acted with the cordial support of the British Government. In responding to Mr. Hay's announcement, above set forth, Lord Salisbury, the British Prime Minister, expressed himself "most emphatically as concurring in the policy of the United States."

For 20 years thereafter the "open door" policy rested upon the informal commitments thus made by the various powers. But in the winter of 1921 to 1922, at a conference participated in by all of the principal powers which had interests in the Pacific, the policy was crystallized into the so-called Nine-Power Treaty, which gave definition and precision to the principles upon which the policy rested. In the first article of that treaty, the contracting powers, other than China, agreed:

"1. To respect the sovereignty, the independence and the territorial and administrative integrity of China.

"2. To provide the fullest and most unembarrassed opportunity to China to develop and maintain for herself an effective and stable government.

"3. To use their influence for the purpose of effectually establishing and maintaining the principle of equal opportunity for the commerce and industry of all nations throughout the territory of China.

"4. To refrain from taking advantage of conditions in China in order to seek special rights or privileges which would abridge the rights of subjects or citizens of friendly states, and from countenancing action inimical to the security of such states."

This treaty thus represents a carefully developed and matured international policy intended, on the one hand, to assure to all of the contracting parties their rights and interests in and with regard to China, and on the other hand, to assure to the people of China the fullest opportunity to develop without molestation their sovereignty and independence according to the modern and enlightened standards believed to maintain among the peoples of this earth. At the time this treaty was signed, it was known that China was engaged in an attempt to develop the free institutions of a self-governing republic after her recent revolution from an autocratic form of government; that she would require many years of both economic and political effort to that end; and that her progress would necessarily be slow. The treaty was thus a covenant of self-denial among the signatory powers in deliberate renunciation of any policy of aggression which might tend to interfere with that development. It was believed—and the whole history of the development of the "open door" policy reveals that faith—that only by such a process, under the protection of such an agreement, could the fullest interests not only of China but of all nations which have intercourse with her best be served.

In its report to the President announcing this treaty, the American Delegation, headed by the then Secretary of State, Mr. Charles E. Hughes, said:

"It is believed that through this treaty the 'open door' in China has at least been made a fact."

During the course of the discussions which resulted in the treaty, the chairman of the British Delegation, Lord Balfour, had stated that—

"The British Empire Delegation understood that there was no representative of any power around the table who thought that the old practice of 'spheres of interest' was either advocated by any government or would be tolerable to this conference. So far as the British Government were concerned, they had, in the most formal manner, publicly announced that they regarded this practice as utterly inappropriate to the existing situation."

At the same time the representative of Japan, Baron Shidehara, announced the position of his Government as follows:

"No one denies to China her sacred right to govern herself. No one stands in the way of China to work out her own great national destiny."

The treaty was originally executed by the United States, Belgium, the British Empire, China, France, Italy, Japan, the Netherlands, and Portugal. Subsequently it was also executed by Norway, Bolivia, Sweden, Denmark, and Mexico. Germany has signed it, but her parliament has not yet ratified it.

It must be remembered also that this treaty was one of several treaties and agreements entered into at the Washington Conference by the various powers concerned, all of which were interrelated and interdependent. No one of these treaties can be disregarded without disturbing the general understanding and equilibrium which were intended to be accomplished and effected by the group of agreements arrived at in their entirety. The Washington Conference was essentially a disarmament conference, aimed to promote the possibility of peace in the world not only through the cessation of competition in naval armament but also by the solution of various other disturbing problems which threatened the peace of the world, particularly in the Far East. These problems were all interrelated. The willingness of the American Government to surrender its then commanding lead in battleship construction and to leave its positions at Guam and in the Philippines without further fortification, was predicated upon, among other things, the self-denying covenants contained in the Nine-Power Treaty, which assured the nations of the world not only of equal opportunity for their Eastern trade but also against the military aggrandizement of any other power at the expense of China. One can not discuss the possibility of modifying or abrogating those provisions of the Nine-Power Treaty without considering at the same time the other promises upon which they were really dependent.

Six years later the policy of self-denial against aggression by a stronger against a weaker power, upon which the Nine-Power Treaty had been based, received a powerful reinforcement by the execution by substantially all the nations of the world of the Pact of Paris, the so-called Kellogg-Briand Pact. These two treaties represent independent but harmonious steps taken for the purpose of aligning the conscience and public opinion of the world in favor of a system of orderly development by the law of nations including the settlement of all controversies by methods of justice and peace instead of by arbitrary force. The program for the protection of China from outside aggression is an essential part of any such development. The signatories and adherents of the Nine-Power Treaty rightly felt that the orderly and peaceful development of the 400,000,000 of people inhabiting China was necessary to the peaceful welfare of the entire world and that no program for the welfare of the world as a whole could afford to neglect the welfare and protection of China.

The recent events which have taken place in China, especially the hostilities which having been begun in Manchuria have latterly been extended to Shanghai, far from indicating the advisability of any modification of the treaties we have been discussing, have tended to bring home the vital importance of the faithful observance of the covenants therein to all of the nations interested in the Far East. It is not necessary in that connection to inquire into the causes of the controversy or attempt to apportion the blame between the two nations which are unhappily involved; for regardless of cause or responsibility, it is clear beyond peradventure that a situation has developed which cannot, under any circumstances, be reconciled with the obligations of the covenants of these two treaties, and that if the treaties had been faithfully observed such a situation could not have arisen. The signatories of the Nine-Power Treaty and of the Kellogg-Briand Pact who are not parties to that conflict are not likely to see any reason for modifying the terms of those treaties. To them the real value of the faithful performance of the treaties has been brought sharply home by the perils and losses to which their nationals have been subjected in Shanghai.

That is the view of this Government. We see no reason for abandoning the enlightened principles which are embodied in these treaties. We believe that this situation would have been avoided had these covenants been faithfully observed, and no evidence has come to us to indicate that a due compliance with them would have interfered with the adequate protection of the legitimate rights in China of the signatories of those treaties and their nationals.

On January 7th last, upon the instruction of the President, this Government formally notified Japan and China that it would not recognize any situation, treaty or agreement entered into by those Governments in violation of the covenants of these treaties, which affected the rights of our Government or its citizens in China. If a similar decision should be reached and a similar position taken by the other Governments of the world, a caveat will be placed upon such action which, we believe, will effectively bar the legality hereafter of any title or right sought to be obtained by pressure or treaty violation, and which, as has been shown by history in the past, will eventually lead to the restoration to China of rights and titles of which she may have been deprived.

In the past our Government, as one of the leading powers on the Pacific Ocean, has rested its policy upon an abiding faith in the future of the people of China and upon the ultimate success in dealing with them of the principles of fair play, patience, and mutual goodwill. We appreciate the immensity of the task which lies before her statesmen in the development of her country and its Government. The delays in her progress, the instability of her attempts to secure a responsible government, were foreseen by Messrs. Hay and Hughes and their contemporaries and were the very obstacles which the policy of the "open door" was designed to meet.

We concur with those statesmen, representing all the nations, in the Washington Conference who decided that China was entitled to the time necessary to accomplish her development. We are prepared to make that our policy for the future.

Very sincerely yours,

HENRY L. STIMSON.

3. Statement of the Secretary of State regarding "Autonomy Movement" in North China, December 6, 1935[3]

There is going on in and with regard to North China a political struggle which is unusual in character and which may have far-reaching effects. The persons mentioned in reports of it are many; the action is rapid and covers a large area; opinions with regard to it vary; what may come of it no one could safely undertake to say; but, whatever the origin, whoever the agents, be what they may the methods, the fact stands out that an effort is being made—and is being resisted—to bring about a substantial change in the political status and condition of several of China's northern Provinces.

Unusual developments in any part of China are rightfully and necessarily of concern not alone to the Government and people of China but to all of the many powers which have interests in China. For, in relations with China and in China, the treaty rights and the treaty obligations of the "treaty powers" are in general identical. The United States is one of those powers.

In the area under reference the interests of the United States are similar to those of other powers. In that area there are located, and our rights and obligations appertain to, a considerable number of American nationals, some American property, and substantial American commercial and cultural activities. The American Government is therefore closely observing what is happening there.

Political disturbances and pressures give rise to uncertainty and misgiving and tend to produce economic and social dislocations. They make difficult the enjoyment of treaty rights and the fulfillment of treaty obligations.

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[3] Department of State, *Press Releases,* XIII, 478. This statement was formally made in reply to inquiries by press correspondents regarding the "autonomy movement" in North China, Chinese and Japanese activities in relation thereto, and the American Government's attitude.

The views of the American Government with regard to such matters, not alone in relation to China but in relation to the whole world, are well known. As I have stated on many occasions, it seems to this Government most important in this period of world-wide political unrest and economic instability that governments and peoples keep faith in principles and pledges. In international relations there must be agreements and respect for agreements in order that there may be confidence and stability and sense of security which are essential to orderly life and progress. This country has abiding faith in the fundamental principles of its traditional policy. This Government adheres to the provisions of the treaties to which it is a party and continues to bespeak respect by all nations for the provisions of treaties solemnly entered into for the purpose of facilitating and regulating, to reciprocal and common advantage, the contacts between and among the countries signatory.

4. Fundamental Principles of International Policy: Statement of the Secretary of State, July 16 1937 [4]

I have been receiving from many sources inquiries and suggestions arising out of disturbed situations in various parts of the world.

Unquestionably there are in a number of regions tensions and strains which on their face involve only countries that are near neighbors but which in ultimate analysis are of inevitable concern to the whole world. Any situation in which armed hostilities are in progress or are threatened is a situation wherein rights and interests of all nations either are or may be seriously affected. There can be no serious hostilities anywhere in the world which will not one way or another affect interests or rights or obligations of this country. I therefore feel warranted in making—in fact, I feel it a duty to make—a statement of this Government's position in regard to international problems and situations with respect to which this country feels deep concern.

This country constantly and consistently advocates maintenance of peace. We advocate national and international self-restraint. We advocate abstinence by all nations from use of force in pursuit of policy and from interference in the internal affairs of other nations. We advocate adjustment of problems in international relations by processes of peaceful negotiation and agreement. We advocate faithful observance of international agreements. Upholding the principle of the sanctity of treaties, we believe in modification of provisions of treaties, when need therefor arises, by orderly processes carried out in a spirit of mutual helpfulness and accommodation. We believe in respect by all nations for the rights of others and performance by all nations of established obligations. We stand for revitalizing and strengthening of international law. We advocate steps toward promotion of economic security and stability the world over. We advocate lowering or removing of excessive barriers in international trade. We seek effective equality of commercial opportunity and we urge upon all nations application of the principle of equality of treatment. We believe in limitation and reduction of armament. Realizing the necessity for maintaining armed forces adequate for national security, we are prepared to reduce or to increase our own armed forces in proportion to reductions or increases made by other countries. We avoid entering into alliances or entangling commitments but we believe in co-operative effort by peaceful and practicable means in support of the principles hereinbefore stated.

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[4] This statement was circulated to all Governments and the replies from them are collected in *Fundamental Principles of International Policy,* Department of State, Publication No. 1079.

5. Application of the Principles to the Far East: Statement of the Secretary of State, August 23, 1937 [5]

At his press conference on August 17, the Secretary of State announced that (1) legislative action to make available funds for purposes of emergency relief necessitated by the situation in the Far East had been asked and that (2) this Government had given orders for a regiment of Marines to prepare to proceed to Shanghai. The Secretary then discussed at some length the principles of policy on which this Government was proceeding.

The situation at Shanghai is in many respects unique. Shanghai is a great cosmopolitan center, with a population of over three million, a port which has been developed by the nationals of many countries, at which there have prevailed mutually advantageous contacts of all types and varieties between and among the Chinese and people of almost all other countries of the world. At Shanghai, there exists a multiplicity

[5] Department of State, *Press Releases,* XVII, 166.

of rights and interests which are of inevitable concern to many countries, including the United States.

In the present situation, the American Government is engaged in facilitating in every way possible an orderly and safe removal of American citizens from areas where there is special danger. Further, it is the policy of the American Government to afford its nationals appropriate protection, primarily against mobs or other uncontrolled elements. For that purpose it has for many years maintained small detachments of armed forces in China, and for that purpose it is sending the present small re-enforcement. These armed forces there have no mission of aggression. It is their function to be of assistance toward maintenance of order and security. It has been the desire and the intention of the American Government to remove these forces when performance of their function of protection is no longer called for, and such remains its desire and expectation.

The issues and problems which are of concern to this Government in the present situation in the Pacific area go far beyond merely the immediate question of protection of the nationals and interests of the United States. The conditions which prevail in that area are intimately connected with and have a direct and fundamental relationship to the general principles of policy to which attention was called in the statement of July 16, which statement has evoked expressions of approval from more than fifty governments. This Government is firmly of the opinion that the principles summarized in that statement should effectively govern international relationships.

When there unfortunately arises in any part of the world the threat or the existence of serious hostilities, the matter is of concern to all nations. Without attempting to pass judgment regarding the merits of the controversy, we appeal to the parties to refrain from resort to war. We urge that they settle their differences in accordance with principles which in the opinion not alone of our people but of most peoples of the world should govern in international relationships. We consider applicable throughout the world, in the Pacific area as elsewhere, the principles set forth in the statement of July 16. That statement of principles is comprehensive and basic. It embraces the principles embodied in many treaties, including the Washington Conference treaties and the Kellogg-Briand Pact of Paris.

From the beginning of the present controversy in the Far East, we have been urging upon both the Chinese and the Japanese Governments the importance of refraining from hostilities and of maintaining peace. We have been participating constantly in consultation with interested governments directed toward peaceful adjustment. This Government does not believe in political alliances or entanglements, nor does it believe in extreme isolation. It does believe in international cooperaton for the purpose of seeking through pacific methods the achievement of those objectives set forth in the statement of July 16. In the light of our well-defined attitude and policies, and within the range thereof, this Government is giving most solicitous attention to every phase of the Far Eastern situation, toward safeguarding the lives and welfare of our people and making effective the policies—especially the policy of peace—in which this country believes and to which it is committed.

This Government is endeavoring to see kept alive, strengthened and revitalized, in reference to the Pacific area and to all the world, these fundamental principles.

III. RELATIONS OF OTHER STATES IN THE FAR EAST

1. Agreement between France and Japan in Regard to the Continent of Asia, June 10, 1907[1]

The Government of His Majesty the Emperor of Japan and the Government of the French Republic, animated by the desire to strengthen the relations of amity existing between them, and to remove from those relations all cause of misunderstanding for the future, have decided to conclude the following Agreement:

"The Governments of Japan and France, being agreed to respect the independence and integrity of China, as well as the principle of equal treatment in that country for the commerce and subjects or citizens (i.e., *ressortissants*) of all nations, and having a special interest in having order and a pacific state of things guaranteed especially in the regions of the Chinese Empire adjacent to the territories where they have the rights of sovereignty, protection or occupation, engage to support each other for assuring the peace and security in those regions, with a view to maintaining the respective situation and the territorial rights of the two Contracting Parties in the Continent of Asia."

In witness whereof, the Undersigned: His Excellency Monsieur Kurino, Ambassador Extraordinary and Plenipotentiary of His Majesty the Emperor of Japan to the President of the French Republic, and His Excellency Monsieur Stephen Pichon, Senator, Minister for Foreign Affairs, authorized by their respective Governments, have signed this Agreement and have affixed thereto their seals.

Done at Paris, the 10th of June, 1907.

(L.S.) S. KURINO.
(L.S.) S. PICHON.

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[1] MacMurray, J. V. A., *Treaties and Agreements with and Concerning China,* I, 640; 100 *British and Foreign State Papers,* 913.

2. Soviet-Outer Mongolian Protocol of Mutual Assistance, March 12, 1936[2]

The Governments of the U.S.S.R. and of the Mongolian People's Republic following relations of invariable friendship existing between their countries since the liberation of the territory of the Mongolian People's Republic in 1921 with the assistance of the Red Army, from White Guards' detachments, connected with military forces which invaded the territory of the U.S.S.R., and guided by the desire to support the cause of peace in the Far East and to promote further a consolidation of the friendly relations now existing between them, have decided to formulate in the shape of the present Protocol a gentlemen's agreement which has existed between them since November 27, 1934, providing for mutual assistance by all means in the matter of averting and preventing the menace of military attack and also rendering to each other aid and assistance in case of attack by any third state upon the U.S.S.R. or Mongolian People's Republic, for which purpose we have signed this Protocol.

Article I. In event of the menace of attack upon the territory of the U.S.S.R. or of the Mongolian People's Republic on the part of a third state or government the U.S.S.R. and the Mongolian People's Republic undertake immediately to consider jointly the situation that has arisen and to take all measures which could be necessary for the protection and security of their respective territories.

Article II. The Governments of the U.S.S.R. and of the Mongolian People's Republic undertake, in the event of military attack upon one of the contracting parties, to render each other every assistance, including military.

Article III. The Governments of the U.S.S.R. and of the Mongolian People's Republic consider it self-understood that the troops of one of the parties stationed by mutual agreement in the territory of the other party, by way of fulfilment of the obligations set forth in Articles I or II, will be withdrawn from the territory concerned immediately when the necessity for it ceases, similarly to what took place during 1925 with regard to the withdrawal of Soviet troops from the territory of the Mongolian People's Republic.

Article IV. This Protocol is drawn up in two copies in the Russian and the Mongolian languages and both texts are equally valid.

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[2] *China Year Book,* 1936, 21.

This Protocol shall become effective from the moment of its signature and will remain in force during ten years from that moment.

Signed in the City of Ulan-Bator-Choto on the 12th of March, 1936.

[Signatures omitted.]

3. The German-Japanese Convention against the Communist International, Berlin, November 25, 1936 [3]

[*Translation*]

The German Government and the Imperial Japanese Government, recognizing that the aim of the Communist International, known as the Comintern, is directed at disrupting and violating existing States with all means at its command, and convinced that to tolerate the Communist International's interference with the internal affairs of nations not only endangers their internal peace and social well-being but threatens world peace at large, animated by a desire to work in common against Communist disruptive influences, have arrived at the following agreement:

ARTICLE I. The high contracting States agree to mutually inform each other concerning the activities of the Communist International, to consult with each other concerning measures to combat this activity, and to execute these measures in close co-operation with each other.

ARTICLE II. The two high contracting States will jointly invite third States whose domestic peace is endangered by the disruptive activities of the Communist International to embark upon measures for warding these off in accordance with the spirit of this agreement or to join in it.

ARTICLE III. For this agreement, both the German and Japanese texts are regarded as original versions. It becomes effective the day of signing and is in force for a period of five years. The high contracting States will, at the proper time before expiration of this period, arrive at an understanding with each other concerning the further form of their co-operation.

In witness whereof the undersigned, authorized in good and due form by their respective Governments, have signed this convention and affixed their seals thereto.

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[3] *International Conciliation,* No. 327, February, 1937, 164–165, modified. The German text is published in *Nouveau recueil général de traités,* 3ᵉ série, XXXIII, 376. An English translation from the Japanese *alternat* copy is in *Contemporary Japan,* V, (1936–37), 514.

Done in duplicate at Berlin the 25th of November, 1936, that is, the 25th of November of the eleventh year of the Showa Period.

JOACHIM VON RIBBENTROP,
Ambassador Extraordinary and Plenipotentiary of the German Reich.
VISCOUNT KIMITOMO MUSHAKOJI,
Imperial Japanese Ambassador Extraordinary and Plenipotentiary.

SUPPLEMENTARY PROTOCOL

On the occasion of the signature this day of the convention against the Communist International the undersigned plenipotentiaries have agreed as follows:

(*a*) The competent authorities of both high contracting States will co-operate most closely in connection with the exchange of information concerning the activities of the Communist International, as well as in connection with publicity and defense measures against the Communist International.

(*b*) The competent authorities of both high contracting States will, within the framework of existing laws, take strict measures against those who, at home or abroad, directly or indirectly are active in the service of the Communist International or lend a helping hand to its disruptive work.

(*c*) With a view to facilitating the co-operation of the competent authorities of both high contracting States as specified in (*a*), a permanent commission will be created. In this commission the further defensive measures necessary for combating the disruptive work of the Communist International will be considered and deliberated upon.

Berlin, the 25th of November, 1936, that is, the 25th of November of the eleventh year of the Showa Period.

RIBBENTROP.
MUSHAKOJI.

4. Protocol between Japan, Germany and Italy, November 6, 1937 [4]

[*Unofficial Translation*]

The Imperial Government of Japan,
The Government of Italy and
The Government of Germany,

Considering that the Communist International is constantly endangering the civilized world in the Orient and the Occident, and disturbing and destroying its peace and order,

Convinced that only a close collaboration between all the Powers interested in the maintenance of peace and order can check and eliminate that danger,

Considering that Italy, a state which, since the establishment of the Fascist Regime has combated that danger with inflexible determination and which has expelled the Communist International from its territory, has decided to range herself against that common enemy along with Japan and Germany, States which on their part are animated by the same spirit of defense against the Communist International,

Have, in conformity with Article II of the Agreement against the Communist International concluded at Berlin on November 25, 1936 between Japan and Germany, agreed as follows:

Article I. Italy adheres to the Agreement against the Communist International and to the Supplementary Protocol concluded on November 25, 1936, between Japan and Germany, the text of which is attached to the present Protocol as an annex.

Article II. The three Powers Signatory to the present Protocol agree that Italy is to be considered as an original signatory of the Agreement and the Supplementary Protocol mentioned in the preceding Article, the signature of the present Protocol being equivalent to the signature of the original text of the Agreement and the Supplementary Protocol.

Article III. The present Protocol shall form an integral part of the Agreement and the Supplementary Protocol above mentioned.

Article IV. The present Protocol is drawn up in Japanese, Italian and German, each text being considered as authentic. It shall come into effect as from the date of its signature.

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[4] *Contemporary Japan,* VI (1937), 578–579, modified. The German *alternat* is published in French translation *Bulletin de l'Institut juridique international,* XXXVIII, 30.

In witness whereof the undersigned, duly authorized by their respective Governments, have signed the present Protocol and have affixed thereto their respective seals.

Done in triplicate at Rome on the Sixth day of November, of the 12th year of Showa, corresponding to the Sixth day of November 1937, the 16th year of the Fascist Era.

(Signed) M. HOTTA.
(Signed) CIANO.
(Signed) JOACHIM VON RIBBENTROP.

5. Soviet-Chinese Nonaggression Pact, August 21, 1937 [5]

1. The two High Contracting Parties solemnly reaffirm that they condemn recourse to war for the solution of international controversies and that they renounce it as an instrument of national policy in their relations with each other and in pursuance of this pledge they undertake to refrain from any aggression against each other individually or jointly with one or more other Powers.

2. In the event that either of the High Contracting Parties should be subjected to aggression on the part of one or more third Powers, the other High Contracting Party obligates itself not to render assistance of any kind, either directly or indirectly, to such third Power or Powers at any time during the entire conflict and also to refrain from taking any action or entering into any agreement which may be used by the aggressor or aggressors to the disadvantage of the party subjected to aggression.

3. The provisions of the present treaty shall not be so interpreted as to affect or modify the rights and obligations arising in respect of the High Contracting Parties out of bilateral or multilateral treaties or agreements of which both High Contracting Parties are signatories and which were concluded prior to the entering into force of the present treaty.

4. The present treaty is drawn up in duplicate in English. It comes into force on the day of signature by the above-mentioned plenipotentiaries and shall remain in force for a period of five years. Either of the High Contracting Parties may notify the other six months before the expiration of the period of its desire to terminate the treaty. In case both parties fail to do so in time, the treaty shall be considered as being auto-

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[5] *China Weekly Review*, September 4, 1937, 9; League of Nations *Treaty Series* Reg. No. 4180.

matically extended for a period of two years after the expiration of the first period. Should neither of the High Contracting Parties notify the other six months before the expiration of the two-year period of its desire to terminate the treaty, it shall continue in force for another period of two years and so on successively.

(L.S.) WANG CH'UNG-HUI.
(L.S.) D. BOGOMOLOFF.

IV. OBLIGATIONS OF GENERAL APPLICATION

1. Treaty Respecting Principles and Policies to be Followed in Matters Concerning China[1] [Nine-Power Treaty]

Signed at Washington, February 6, 1922; in force from August 5, 1925[2]

The United States of America, Belgium, the British Empire, China, France, Italy, Japan, the Netherlands and Portugal:

Desiring to adopt a policy designed to stabilize conditions in the Far East, to safeguard the rights and interests of China, and to promote intercourse between China and the other Powers upon the basis of equality of opportunity;

Have resolved to conclude a treaty for that purpose and to that end have appointed as their respective Plenipotentiaries: . . .

Who, having communicated to each other their full powers, found to be in good and due form, have agreed as follows:

[Here follow names and titles of plenipotentiaries.]

ARTICLE I. The Contracting Powers, other than China, agree:

(1) To respect the sovereignty, the independence, and the territorial and administrative integrity of China;

(2) To provide the fullest and most unembarrassed opportunity to China to develop and maintain for herself an effective and stable government;

(3) To use their influence for the purpose of effectually establishing and maintaining the principle of equal oppor-

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[1] *U. S. Treaty Series,* No. 723; League of Nations, 38 *Treaty Series,* 278; Reg. No. 982 (1925); United Kingdom, *Treaty Series,* 1925, No. 42.

[2] By ratification and adhesion the following are parties to the treaty: Belgium, Bolivia, British Empire (United Kingdom, Australia, Canada, India, New Zealand, South Africa), China, Denmark, France, Germany (December 17, 1925, subject to ratification), Italy, Japan, Mexico, Netherlands, Norway, Portugal, Sweden and the United States.

tunity for the commerce and industry of all nations throughout the territory of China;

(4) To refrain from taking advantage of conditions in China in order to seek special rights or privileges which would abridge the rights of subjects or citizens of friendly States, and from countenancing action inimical to the security of such States.

ARTICLE II. The Contracting Powers agree not to enter into any treaty, agreement, arrangement or understanding, either with one another, or, individually or collectively, with any Power or Powers, which would infringe or impair the principles stated in Article I.

ARTICLE III. With a view to applying more effectually the principles of the Open Door or equality of opportunity in China for the trade and industry of all nations, the Contracting Powers, other than China, agree that they will not seek, nor support their respective nationals in seeking—

(*a*) any arrangement which might purport to establish in favor of their interests any general superiority of rights with respect to commercial or economic development in any designated region of China;

(*b*) any such monopoly or preference as would deprive the nationals of any other Power of the right of undertaking any legitimate trade or industry in China, or of participating with the Chinese Government, or with any local authority, in any category of public enterprise, or which by reason of its scope, duration or geographical extent is calculated to frustrate the practical application of the principle of equal opportunity.

It is understood that the foregoing stipulations of this Article are not to be so construed as to prohibit the acquisition of such properties or rights as may be necessary to the conduct of a particular commercial, industrial or financial undertaking or to the encouragement of invention and research.

China undertakes to be guided by the principles stated in the foregoing stipulations of this Article in dealing with applications for economic rights and privileges from Governments and nationals of all foreign countries, whether parties to the present Treaty or not.

ARTICLE IV. The Contracting Powers agree not to support any agreements by their respective nationals with each other designed to create Spheres of Influence or to provide for the enjoyment of mutually exclusive opportunities in designated parts of Chinese territory.

Article V. China agrees that, throughout the whole of the railways in China, she will not exercise or permit unfair discrimination of any kind. In particular there shall be no discrimination whatever, direct or indirect, in respect of charges or of facilities on the ground of the nationality of passengers or the countries from which or to which they are proceeding, or the origin or ownership of goods or the country from which or to which they are consigned, or the nationality or ownership of the ship or other means of conveying such passengers or goods before or after their transport on the Chinese Railways.

The Contracting Powers, other than China, assume a corresponding obligation in respect of any of the aforesaid railways over which they or their nationals are in a position to exercise any control in virtue of any concession, special agreement or otherwise.

Article VI. The Contracting Powers, other than China, agree fully to respect China's rights as a neutral in time of war to which China is not a party; and China declares that when she is a neutral she will observe the obligations of neutrality.

Article VII. The Contracting Powers agree that, whenever a situation arises which in the opinion of any one of them involves the application of the stipulations of the present Treaty, and renders desirable discussion of such application, there shall be full and frank communication between the Contracting Powers concerned.

Article VIII. Powers not signatory to the present Treaty, which have Governments recognized by the Signatory Powers and which have treaty relations with China, shall be invited to adhere to the present Treaty. To this end the Government of the United States will make the necessary communications to nonsignatory Powers and will inform the Contracting Powers of the replies received. Adherence by any Power shall become effective on receipt of notice thereof by the Government of the United States.

Article IX. The present Treaty shall be ratified by the Contracting Powers in accordance with their respective constitutional methods and shall take effect on the date of the deposit of all the ratifications, which shall take place at Washington as soon as possible. The Government of the United States will transmit to the other Contracting Powers a certified copy of the *procès-verbal* of the deposit of ratifications.

The present Treaty, of which the French and English texts are both authentic, shall remain deposited in the archives of the Government of the United States, and duly certified copies thereof shall be transmitted by that Government to the other Contracting Powers.

In faith whereof the above-named Plenipotentiaries have signed the present Treaty.

Done at the City of Washington the Sixth day of February One Thousand Nine Hundred and Twenty-Two.

[Signatures of plenipotentiaries omitted.]

2. Treaty between the United States, the British Empire, France and Japan relating to their Insular Possessions and Insular Dominions in the Region of the Pacific Ocean[3] [Four-Power Treaty]

Signed at Washington, December 13, 1921; in force from August 17, 1923

The United States of America, the British Empire, France and Japan,

With a view to the preservation of the general peace and the maintenance of their rights in relation to their insular possessions and insular dominions in the region of the Pacific Ocean,

Have determined to conclude a treaty to this effect and have appointed as their plenipotentiaries: . . .

[Here follow names and titles of plenipotentiaries.]

Who, having communicated their full powers, found in good and due form, have agreed as follows:

I. The High Contracting Parties agree as between themselves to respect their rights in relation to their insular possessions and insular dominions in the region of the Pacific Ocean.

If there should develop between any of the High Contracting Parties a controversy arising out of any Pacific question and involving their said rights which is not satisfactorily settled by diplomacy and is likely to affect the harmonious accord now happily subsisting between them, they shall invite the other High Contracting Parties to a joint conference to which the whole subject will be referred for consideration and adjustment.

II. If the said rights are threatened by the aggressive action of any other Power, the High Contracting Parties shall communicate with one another fully and frankly in order to arrive at an understanding as to the most efficient measures to be taken, jointly or separately, to meet the exigencies of the particular situation.

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[3] United States, *Treaty Series,* No. 669; League of Nations, 25 *Treaty Series,* 184; Reg. No. 607.

III. This Treaty shall remain in force for 10 years from the time it shall take effect, and after the expiration of said period it shall continue to be in force subject to the right of any of the High Contracting Parties to terminate it upon 12 months' notice.

IV. This Treaty shall be ratified as soon as possible in accordance with the constitutional methods of the High Contracting Parties and shall take effect on the deposit of ratifications, which shall take place at Washington, and thereupon the agreement between Great Britain and Japan, which was concluded at London on July 13, 1911, shall terminate. The Government of the United States will transmit to all the signatory Powers a certified copy of the *procès-verbal* of the deposit of ratifications.

The present treaty, in French and in English, shall remain deposited in the Archives of the Government of the United States, and duly certified copies thereof will be transmitted by that Government to each of the Signatory Powers.

[Here follow formal clauses and signatures.]

Reservation of the United States

[*Excerpt from the President's proclamation.*]

The said Treaty was ratified by the United States subject to the reservation and understanding that "The United States understands that under the statement in the preamble and under the terms of this treaty there is no commitment to armed force, no alliance, no obligation to join in any defense."

Declaration Signed Separately December 13, 1921

In signing the Treaty this day between the United States of America, the British Empire, France and Japan, it is declared to be the understanding and intent of the Signatory Powers:

1. That the Treaty shall apply to the mandated islands in the Pacific Ocean; provided, however, that the making of the Treaty shall not be deemed to be an assent on the part of the United States of America to the mandates and shall not preclude agreements between the United States of America and the Mandatory Powers respectively in relation to the mandated islands.

2. That the controversies to which the second paragraph of Article I refers shall not be taken to embrace questions which according to principles of international law lie exclusively within the domestic jurisdiction of the respective Powers.

TREATY SUPPLEMENTARY TO THE TREATY RELATING TO THEIR INSULAR POSSESSIONS AND INSULAR DOMINIONS IN THE REGION OF THE PACIFIC OCEAN[4]

Signed at Washington, February 6, 1922; in force from August 17, 1923

The United States of America, the British Empire, France and Japan have, through their respective plenipotentiaries, agreed upon the following stipulations supplementary to the quadruple Treaty signed at Washington on December 13, 1921:

The term "insular possessions and insular dominions" used in the aforesaid Treaty shall, in its application to Japan, include only Karafuto (or the southern portion of the island of Sakhalin), Formosa and the Pescadores, and the islands under the mandate of Japan.

The present agreement shall have the same force and effect as the said Treaty to which it is supplementary.

The provisions of Article IV of the aforesaid treaty of December 13, 1921, relating to ratification shall be applicable to the present Agreement, which in French and English shall remain deposited in the Archives of the Government of the United States, and duly certified copies thereof shall be transmitted by that Government to each of the other Contracting Powers.

[Here follow formal clauses and signatures.]

3. The Treaty for the Renunciation of War as an Instrument of National Policy[5] [Kellogg-Briand Pact]

Signed at Paris, August 27, 1928; in force July 24, 1929[6]

The President of the German Reich, the President of the United States of America, His Majesty the King of the Bel-

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[4] United States, *Treaty Series,* No. 670; League of Nations, 25 *Treaty Series,* 196; Reg. No. 608.

[5] United States, *Treaty Series,* No. 796; League of Nations, 94 *Treaty Series,* 57; Reg. No. 2137.

[6] On April 1, 1938, the treaty was in force as follows:

Ratifications: Australia, Belgium, Canada, Czechoslovakia, France, gians, the President of the French Republic, His Majesty the King of Great Britain, Ireland and the British Dominions beyond the Seas, Emperor of India, His Majesty the King of Italy, His Majesty the Emperor of Japan, the President of the Republic of Poland, the President of the Czechoslovak Republic,

Deeply sensible of their solemn duty to promote the welfare of mankind:

Persuaded that the time has come when a frank renunciation of war as an instrument of national policy should be made to the end that the peaceful and friendly relations now existing between their peoples may be perpetuated;

Convinced that all changes in their relations with one another should be sought only by pacific means and be the result of a peaceful and orderly process, and that any Signatory Power which shall hereafter seek to promote its national interests by resort to war should be denied the benefits furnished by this Treaty;

Hopeful that, encouraged by their example, all the other nations of the world will join in this humane endeavor and by adhering to the present Treaty as soon as it comes into force bring their peoples within the scope of its beneficent provisions, thus uniting the civilized nations of the world in a common renunciation of war as an instrument of their national policy;

Have decided to conclude a Treaty and for that purpose have appointed as their respective plenipoteniaries

[Here follows list of the plenipotentiaries.]

who, having communicated to one another their full powers found in good and due form have agreed upon the following articles:

ARTICLE I. The High Contracting Parties solemnly declare in the names of their respective peoples that they condemn re-

Germany, India, Ireland, Italy, Japan, New Zealand, Poland, South Africa, United Kingdom, United States;

Adhesions: Afghanistan, Albania, Brazil, Bulgaria, Chile, China, Colombia, Costa Rica, Cuba, Danzig (Free City), Denmark, Dominican Republic, Ecuador, Egypt, Estonia, Ethiopia, Finland, Greece, Guatemala, Haiti, Honduras, Hungary, Iceland, Iran, Iraq, Latvia, Liberia, Lithuania, Luxemburg, Mexico, Netherlands, Nicaragua, Norway, Panama, Paraguay, Peru, Portugal, Rumania, Saudi Arabia, Siam, Spain, Switzerland, Turkey, Venezuela, Yugoslavia.

Argentina, Bolivia, El Salvador and Uruguay have not yet adhered. Austria had adhered.

course to war for the solution of international controversies, and renounce it as an instrument of national policy in their relations with one another.

Article II. The High Contracting Parties agree that the settlement or solution of all disputes or conflicts of whatever nature or of whatever origin they may be, which may arise among them, shall never be sought except by pacific means.

Article III. The present Treaty shall be ratified by the High Contracting Parties named in the Preamble in accordance with their respective constitutional requirements, and shall take effect as between them as soon as all their several instruments of ratification shall have been deposited at Washington.

This Treaty shall, when it has come into effect as prescribed in the preceding paragraph, remain open as long as may be necessary for adherence by all the other Powers of the world. Every instrument evidencing the adherence of a Power shall be deposited at Washington and the Treaty shall immediately upon such deposit become effective as between the Power thus adhering and the other Powers parties hereto.

It shall be the duty of the Government of the United States to furnish each Government named in the Preamble and every Government subsequently adhering to this Treaty with a certified copy of the treaty and of every instrument of ratification or adherence. It shall also be the duty of the Government of the United States telegraphically to notify such Governments immediately upon the deposit with it of each instrument of ratification or adherence.

In faith whereof the respective plenipotentiaries have signed this Treaty in the French and English languages both texts having equal force, and hereunto affix their seals.

Done at Paris, the 27th day of August in the year one thousand nine hundred and twenty-eight.

[The signatures of the plenipotentiaries follow.]

4. Covenant of the League of Nations, Articles 10–17, 19.[7]

Article 10. The Members of the League undertake to respect and preserve as against external aggression the territorial integrity and existing political independence of all Members of the League. In case of any such aggression or in case of any threat or danger of such aggression the Council shall advise upon the means by which this obligation shall be fulfilled.

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[7] Reprinted from Annex to C.L. 134. 1926. V; Hudson, Manley O., *International Legislation,* I, 7–12.

Article 11. 1. Any war or threat of war, whether immediately affecting any of the Members of the League or not, is hereby declared a matter of concern to the whole League, and the League shall take any action that may be deemed wise and effectual to safeguard the peace of nations. In case any such emergency should arise, the Secretary-General shall on the request of any Member of the League forthwith summon a meeting of the Council.

2. It is also declared to be the friendly right of each Member of the League to bring to the attention of the Assembly or of the Council any circumstance whatever affecting international relations which threatens to disturb international peace or the good understanding between nations upon which peace depends.

Article 12. 1. The Members of the League agree that if there should arise between them any dispute likely to lead to a rupture, they will submit the matter either to arbitration or judicial settlement or to inquiry by the Council, and they agree in no case to resort to war until three months after the award by the arbitrators or the judicial decision or the report by the Council.

2. In any case under this Article the award of the arbitrators or the judicial decision shall be made within a reasonable time, and the report of the Council shall be made within six months after the submission of the dispute.

Article 13. 1. The Members of the League agree that whenever any dispute shall arise between them which they recognize to be suitable for submission to arbitration or judicial settlement, and which can not be satisfactorily settled by diplomacy, they will submit the whole subject-matter to arbitration or judicial settlement.

2. Disputes as to the interpretation of a treaty, as to any question of international law, as to the existence of any fact which if established would constitute a breach of any international obligation, or as to the extent and nature of the reparation to be made for any such breach, are declared to be among those which are generally suitable for submission to arbitration or judicial settlement.

3. For the consideration of any such dispute, the court to which the case is referred shall be the Permanent Court of International Justice, established in accordance with Article 14, or any tribunal agreed on by the parties to the dispute or stipulated in any convention existing between them.

4. The Members of the League agree that they will carry out in full good faith any award or decision that may be rendered, and that they will not resort to war against a Member of the League which complies therewith. In the event of any failure to carry out such an award or decision the Council shall propose what steps should be taken to give effect thereto.

Article 14. The Council shall formulate and submit to the Members of the League for adoption plans for the establishment of a Permanent Court of International Justice. The Court shall be competent to hear and determine any dispute of an international character which the parties thereto submit to it. The Court may also give an advisory opinion upon any dispute or question referred to it by the Council or by the Assembly.

Article 15. 1. If there should arise between Members of the League any dispute likely to lead to a rupture which is not submitted to arbitration or judicial settlement in accordance with Article 13, the Members of the League agree that they will submit the matter to the Council. Any party to the dispute may effect such submission by giving notice of the existence of the dispute to the Secretary-General, who will make all necessary arrangements for a full investigation and consideration thereof.

2. For this purpose the parties to the dispute will communicate to the Secretary-General, as promptly as possible, statements of their case with all the relevant facts and papers, and the Council may forthwith direct the publication thereof.

3. The Council shall endeavor to effect a settlement of the dispute, and if such efforts are successful, a statement shall be made public giving such facts and explanations regarding the dispute and the terms of settlement thereof as the Council may deem appropriate.

4. If the dispute is not thus settled, the Council either unanimously or by a majority vote shall make and publish a report containing a statement of the facts of the dispute and the recommendations which are deemed just and proper in regard thereto.

5. Any Member of the League represented on the Council may make public a statement of the facts of the dispute and of its conclusions regarding the same.

6. If a report by the Council is unanimously agreed to by the Members thereof other than the Representatives of one or more of the parties to the dispute, the Members of the League agree that they will not go to war with any party to the dispute which complies with the recommendations of the report.

7. If the Council fails to reach a report which is unanimously agreed to by the Members thereof other than the Representatives of one or more of the parties to the dispute, the Members of the League reserve to themselves the right to take such action as they shall consider necessary for the maintenance of right and justice.

8. If the dispute between the parties is claimed by one of them, and is found by the Council to arise out of a matter which by international law is solely within the domestic jurisdiction of that party, the Council shall so report, and shall make no recommendation as to its settlement.

9. The Council may in any case under this Article refer the dispute to the Assembly. The dispute shall be so referred at the request of either party to the dispute provided that such request be made within fourteen days after the submission of the dispute to the Council.

10. In any case referred to the Assembly, all the provisions of this Article and of Article 12 relating to the action and powers of the Council shall apply to the action and powers of the Assembly, provided that a report made by the Assembly, if concurred in by the Representatives of those Members of the League represented on the Council and a majority of the other Members of the League, exclusive in each case of the Representatives of the parties to the dispute, shall have the same force as a report by the Council concurred in by all the Members thereof other than the Representatives of one or more of the parties to the dispute.

Article 16. 1. Should any Member of the League resort to war in disregard of its covenants under Articles 12, 13, or 15, it shall *ipso facto* be deemed to have committed an act of war against all other Members of the League, which hereby undertake immediately to subject it to the severance of all trade or financial relations, the prohibition of all intercourse between their nationals and the nationals of the covenant-breaking State, and the prevention of all financial, commercial or personal intercourse between the nationals of the covenant-breaking State and the nationals of any other State, whether a Member of the League or not.

2. It shall be the duty of the Council in such case to recommend to the several Governments concerned what effective military, naval or air force the Members of the League shall severally contribute to the armed forces to be used to protect the covenants of the League.

3. The Members of the League agree, further, that they will mutually support one another in the financial and economic

measures which are taken under this Article, in order to minimize the loss and inconvenience resulting from the above measures, and that they will mutually support one another in resisting any special measures aimed at one of their number by the covenant-breaking State, and that they will take the necessary steps to afford passage through their territory to the forces of any of the Members of the League which are co-operating to protect the covenants of the League.

4. Any Member of the League which has violated any covenant of the League may be declared to be no longer a Member of the League by a vote of the Council concurred in by the Representatives of all the other Members of the League represented thereon.

Article 17. 1. In the event of a dispute between a Member of the League and a State which is not a Member of the League, or between States not Members of the League the State or States not Members of the League shall be invited to accept the obligations of membership in the League for the purposes of such dispute, upon such conditions as the Council may deem just. If such invitation is accepted, the provisions of Articles 12 to 16 inclusive shall be applied with such modifications as may be deemed necessary by the Council.

2. Upon such invitation being given, the Council shall immediately institute an inquiry into the circumstances of the dispute and recommend such action as may seem best and most effectual in the circumstances.

3. If a State so invited shall refuse to accept the obligations of membership in the League for the purposes of such dispute, and shall resort to war against a Member of the League, the provisions of Article 16 shall be applicable as against the State taking such action.

4. If both parties to the dispute when so invited refuse to accept the obligations of membership in the League for the purposes of such dispute, the Council may take such measures and make such recommendations as will prevent hostilities and will result in the settlement of the dispute.

Article 19. The Assembly may from time to time advise the reconsideration by Members of the League of treaties which have become inapplicable and the consideration of international conditions whose continuance might endanger the peace of the world.

V. PRINCIPAL NAVIES, APRIL 1, 1938[1]

BRITISH EMPIRE

TYPE	BUILT						BUILDING AND APPROPRIATED FOR		GRAND TOTAL	
	UNDERAGE		OVERAGE		TOTAL					
	No.	Approx. Tons	No.	Tons	No.	Approx. Tons	No.	Approx. Tons	No.	Approx. Tons
Capital ships	15	474,700	—	—	15	474,700	5	175,000	20	649,700
Aircraft carriers	6	115,350	—	—	6	115,350	5	114,000	11	229,350
Cruisers (*a*)	15	145,120	—	—	15	145,120	—	—	15	145,120
Cruisers (*b*)	25	176,620	19	89,690	44	266,310	17	126,050	61	392,360
Destroyers	89	120,024	71	79,440	160	199,464	40	69,850	200	269,314
Submarines	39	47,319	13	6,900	52	54,219	18	18,415	70	72,634
TOTALS	189	1,079,133	103	176,030	292	1,255,163	85	503,315	377	1,758,478

UNITED STATES

TYPE	BUILT						BUILDING AND APPROPRIATED FOR		GRAND TOTAL	
	UNDERAGE		OVERAGE		TOTAL					
	No.	Approx. Tonnage	No.	Approx. Tonnage	No.	Approx. Tons	No.	Approx. Tons	No.	Approx. Tons
Capital ships	15	464,300	—	—	15	464,300	2	70,000	17	534,300
Aircraft carriers	4	100,400	—	—	4	100,400	2	34,600	6	135,000
Cruisers (*a*)	17	161,200	—	—	17	161,200	1	10,000	18	171,200
Cruisers (*b*)	13	100,500	—	—	13	100,500	6	60,000	19	160,500
Destroyers	49	74,780	158	178,710	207	253,490	35	54,350	242	307,840
Submarines	24	35,475	62	43,340	86	78,815	14	20,290	100	99,105
TOTALS	122	936,655	220[2]	222,050	342	1,158,705	60	248,440	402	1,407,945

[1] From data by United States Navy Department, Naval Intelligence Division. Age is as at the end of 1937, by the rules of the 1936 London treaty.

[2] In overage category 134 vessels of 135,210 tons are decommissioned.

V. PRINCIPAL NAVIES, APRIL 1, 1938 (*Cont'd*)

JAPAN

TYPE	BUILT						BUILDING AND APPROPRIATED FOR		GRAND TOTAL	
	UNDERAGE		OVERAGE		TOTAL					
	No.	Approx. Tons	No.	Approx. Tons	No.	Tons	No.	Approx. Tons	No.	Approx. Tons
Capital ships	10[1]	301,400	—	—	10[1]	301,400	—	—	10[1]	301,400
Aircraft carriers	5	78,420	—	—	5	78,420	1[2]	10,050	6	88,470
Cruisers (*a*)	12	107,800	5[3]	45,250	17	153,050	—	—	17	153,050
Cruisers (*b*)	14	83,495	8	35,080	22	118,575	2	16,950	24	135,525
Destroyers	79	107,433	26	25,315	105	132,748	6	9,000	111	141,748
Submarines	41	59,512	16	14,236	57	73,748	3	4,750	60	78,498
TOTALS	161	738,060	55	119,881	216	857,941	12	40,750	228[4]	898,691

[1] Includes Hiyei which was a training ship but is now reported rearmed.

[2] Also carrier Koryu, reported projected for laying down 1938.

[3] The 5 overage cruisers were special under the 1930 Treaty, now classed as coast defense ships.

[4] Data shown on the Japanese Navy are incomplete since 1936, when exchange of information ended. Reports indicate that the numbers and tonnage of each category are greater than that shown.

The above does not include the 5-year Replenishment Program which commenced April 1, 1937. This program is estimated to include: 3 capital ships (reported to be 46,000 tons each, with 16-inch guns); 5 aircraft carriers without flight deck; 43 destroyers; 7 cruisers (*b*) 6.1 inch guns; 8 submarines — total of 66 ships.

ITALY

Type	Built						Building and Appropriated for		Grand Total	
	underage		overage		total					
	No.	Approx. Tons	No.	Tons	No.	Approx. Tons	No.	Approx. Tons	No.	Approx. Tons
Capital ships	4[1]	94,488	—	—	4	94,488	4	140,000	8	234,488
Aircraft carriers	—	—	—	—	—	—	—	—	—	—
Cruisers (*a*)	7	70,000	1	9,232	8	79,232	—	—	8	79,232
Cruisers (*b*)	12	74,488	3	9,330	15	83,818	—	—	15	83,818
Destroyers	77	84,116	33	25,899	110	110,015	40	54,816	150	164,831
Submarines	77	60,937	7	2,456	84	63,393	45 e	42,906 e	129 e	106,299 e
Totals	177	384,029	44	46,917	221	430,946	89 e	237,722 e	310 e	668,668 e

[1] Two vessels being remodernized, work on other two completed.
e = Estimated.

GERMANY

Type	Built						Building and Appropriated for[1]		Grand Total	
	underage		overage		total					
	No.	Approx. Tons	No.	Tons	No.	Approx. Tons	No.	Approx. Tons	No.	Approx. Tons
Capital ships	3	30,000	2	26,080	5	56,080	5	157,000	10	213,080
Aircraft carriers	—	—	—	—	—	—	2	38,500	2	38,500
Cruisers (*a*)	—	—	—	—	—	—	3	30,000	3	30,000
Cruisers (*b*)	6	35,400	—	—	6	35,400	4	34,000	10	69,400
Destroyers	22	25,850	5	3,387	27	29,237	24	32,616	51	61,853
Submarines	36	12,424	—	—	36	12,424	25	13,107	61	25,531
Totals	67	103,674	7	29,467	74	133,141	63	305,223	137	438,364

[1] Building and appropriated for includes 12 Torpedo boats of 600 tons each, which do not come under treaty limitations.

V. PRINCIPAL NAVIES, APRIL 1, 1938 (*Cont'd*)

FRANCE

TYPE	BUILT						BUILDING AND APPROPRIATED FOR		GRAND TOTAL	
	UNDERAGE		OVERAGE		TOTAL					
	No.	Approx. Tons	No.	Approx. Tons	No.	Approx. Tons	No.	Approx. Tons	No.	Approx. Tons
Capital ships	6	137,445	—	—	6	137,445	3	96,500	9	233,945
Aircraft carriers	1	22,146	—	—	1	22,146	2	36,000	3	58,146
Cruisers (*a*)	7	70,000	—	—	7	70,000	—	—	7	70,000
Cruisers (*b*)	12	84,502	—	—	12	84,502	2	15,600	14	100,102
Destroyers	67	114,100	1	915	68	115,015	22	33,480	90	148,495
Submarines	76	73,257	—	—	76	73,257	16	15,397	92	88,654
TOTALS	169	501,450	1	915	170	502,365	45	196,977	215	699,342

U.S.S.R. (RUSSIA)

TYPE	BUILT						BUILDING AND APPROPRIATED FOR		GRAND TOTAL	
	UNDERAGE		OVERAGE		TOTAL					
	No.	Approx. Tons	No.	Approx. Tons	No.	Approx. Tons	No.	Approx. Tons	No.	Approx. Tons
Capital ships	3	69,878	—	—	3	69,878	—[1]	—	3	69,878
Aircraft carriers	—	—	—	—	—	—	1	9,000	1	9,000
Cruisers (*a*)	1	8,030	—	—	1	8,030	7	?	8	?
Cruisers (*b*)	3	17,034	2	11,960	5	28,994	—	—	5	28,994
Destroyers	21	25,704	17	17,623	38	43,327	8	23,200	46	66,527
Submarines	133	72,744 [2]	31	5,910 [2]	164	78,654 [2]	34–44	14,290 [2]	198–208	92,944 [2]
TOTALS	161	193,390 [2]	50	35,493 [2]	211	228,883 [2]	50–60		261–271	

[1] Three capital ships projected. Reported to be 35,000 tons each.
[2] Data on submarines incomplete.

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